

08:21AM

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CISCO SYSTEMS, INC.,)	CV-14-5344-BLF
)	
PLAINTIFF,)	SAN JOSE, CALIFORNIA
)	
VS.)	NOVEMBER 28, 2016
)	
ARISTA NETWORKS, INC.,)	VOLUME 3
)	
DEFENDANT)	PAGES 261-533
)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE BETH LABSON FREEMAN
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: DAVID A. NELSON
QUINN EMANUEL URQUHART & SULLIVAN, LLP
500 WEST MADISON STREET, SUITE 2450
CHICAGO, IL 60661

FOR THE PLAINTIFF: QUINN, EMANUEL, URQUHART & SULLIVAN
BY: SEAN PAK
50 CALIFORNIA STREET, 22ND FLOOR
SAN FRANCISCO, CALIFORNIA 94111

APPEARANCES CONTINUED ON NEXT PAGE

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

APPEARANCES (CONTINUED)

FOR THE DEFENDANT: KEKER & VAN NEST, LLP
BY: ROBERT ADDY VAN NEST
BRIAN FERRALL
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1 SAN JOSE, CALIFORNIA

NOVEMBER 28, 2016

2 P R O C E E D I N G S

3 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD OUT OF THE
08:30AM 4 PRESENCE OF THE JURY:)

08:30AM 5 THE COURT: ALL RIGHT. LET'S CALL OUR CASE. WE WILL
08:30AM 6 DO THAT ONCE FOR THE TRIAL AND GET EVERYONE'S NAME ON THE
08:31AM 7 RECORD.

08:31AM 8 THE CLERK: CALLING CV-14-5344-BLF. CISCO SYSTEMS,
08:31AM 9 INC. V. ARISTA NETWORKS, INC.

08:31AM 10 COUNSEL PLEASE STATE YOUR APPEARANCES.

08:31AM 11 MR. NELSON: GOOD MORNING, YOUR HONOR.

08:31AM 12 DAVE NELSON ON BEHALF OF CISCO; AND WITH ME IS SEAN PACK;
08:31AM 13 AND THEN ALSO AT THE TRIAL THAT MIGHT BE DOING SOME WITNESSES
08:31AM 14 IT WILL BE JORDAN JAFFE; AND THEN CHRISTINE BAKAN IS GOING TO
08:31AM 15 BE HERE AS A CORPORATE WITNESS, EXCUSE ME, THE CORPORATE
08:31AM 16 REPRESENTATIVE FOR TRIAL

08:31AM 17 THE COURT: OKAY. GOOD. WONDERFUL. WONDERFUL.
08:31AM 18 THANK YOU.

08:31AM 19 MR. NELSON: THANK YOU.

08:31AM 20 MR. VAN NEST: GOOD MORNING, YOUR HONOR.
08:31AM 21 BOB VAN NEST FROM KEKER & VAN NEST FOR ARISTA NETWORKS.

08:31AM 22 I'M HERE WITH BRIAN FERRALL AND DAVE SILBERT,
08:31AM 23 ELIZABETH MCCLOSKEY, MICHAEL KWUN, EDUARDO SANTACANA. AND OUR
08:31AM 24 CLIENT REP IS SEAN CHRISTOFFERSON, AND HE WILL BE HERE
08:31AM 25 THROUGHOUT THE TRIAL AS OUR CORPORATE DESIGNEE.

08:32AM 1 GOOD MORNING.

08:32AM 2 THE COURT: ALL RIGHT. GOOD MORNING EVERYONE. WE
08:32AM 3 ARE GOING TO TRY TO GET TO WORK RIGHT AWAY ON THESE MOTIONS
08:32AM 4 BECAUSE WE HAVE QUITE A LOT TO DO.

08:32AM 5 LET ME JUST ASK, WHEN THE JURY COMES IN THEY WILL ONLY NEED
08:32AM 6 THE FIRST TWO ROWS, SO FOR THOSE OF YOU IN THE AUDIENCE I'M
08:32AM 7 GOING TO ASK YOU TO SIT BEHIND THE FIRST TWO ROWS AND HAVE NO
08:32AM 8 INTERACTION WITH THE JURORS AS YOU ARE CERTAINLY AWARE.

08:32AM 9 I HAVE PRELIMINARY JURY INSTRUCTIONS. THANK YOU. I'M
08:32AM 10 READY TO READ THOSE. WE WILL GO ON TO OUR VOIR DIRE THIS
08:32AM 11 MORNING.

08:32AM 12 AND LET'S START WITH ARISTA'S OBJECTIONS TO THE EVIDENCE
08:32AM 13 THAT WAS DESIGNATED. AND LET ME TELL YOU THAT IT WAS A LITTLE
08:32AM 14 BIT CUMBERSOME TO WORK WITH THESE DOCUMENTS, AND WE WILL HAVE
08:32AM 15 TO COME UP WITH MAYBE AN EASIER WAY TO DO THIS.

08:32AM 16 WHAT -- I THINK THERE WERE EIGHT MATTERS THAT WERE OBJECTED
08:32AM 17 TO IN YOUR THREE PAGE BRIEF. I COMMEND YOU FROM SQUEEZING ALL
08:33AM 18 OF THAT IN. BUT THANK YOU FOR BEING SO TIMELY ON IT.

08:33AM 19 MR. FERRALL, ARE YOU GOING TO BE ARGUING IT?

08:33AM 20 MR. FERRALL: I'M GOING TO BE ARGUING AT LEAST ONE OF
08:33AM 21 THEM, AND WE HAVE NARROWED SOME OF THE ISSUES.

08:33AM 22 THE COURT: THAT'S GREAT. I'M GOING TO TICK OFF EACH
08:33AM 23 ONE, AND WHEN WE GET TO IT YOU CAN LET ME KNOW IT'S BEEN
08:33AM 24 RESOLVED. AND I'M GRATEFUL TO HEAR THAT.

08:33AM 25 ALL RIGHT. THE FIRST ISSUE WAS THE SCOPE OF TESTIMONY FROM

08:33AM 1 CHRISTINE BAKAN, INCLUDING ALL EXHIBITS DISCLOSED.

08:33AM 2 MR. FERRALL: THAT HAS NOT BEEN NARROWED, SO WE WILL
08:33AM 3 BE ARGUING THAT ONE.

08:33AM 4 THE COURT: OKAY.

08:33AM 5 I WAS MR. FERRALL, YOU INDICATED THAT MS. BAKAN WAS
08:33AM 6 DESIGNATING THAT -- YOU PROVIDED TO ME EXHIBIT C. EXHIBIT C
08:33AM 7 SHOWED THAT PLAINTIFF INDICATED IT WOULD ID NO ONE FOR ANY OF
08:33AM 8 THOSE TOPICS, SO I DON'T ACTUALLY EVEN KNOW WHAT SHE WAS
08:33AM 9 IDENTIFIED FOR, I DIDN'T GET THAT DOCUMENT THAT SAID SHE WAS
08:33AM 10 THE CORPORATE REP. BUT I PRESUME FROM YOUR PAPERS THAT SHE WAS
08:34AM 11 LATER DESIGNATED FOR THOSE TOPICS

08:34AM 12 MR. FERRALL: YEAH, I THINK THAT'S RIGHT. SHE WAS.
08:34AM 13 BY E-MAIL.

08:34AM 14 THE COURT: FINE. ALL RIGHT. THE EXHIBITS
08:34AM 15 THEMSELVES SEEM TO DEAL WITH THE CCIE CERTIFICATION.

08:34AM 16 SO, MR. PAK, WILL YOU BE ARGUING THAT ONE?

08:34AM 17 MR. NELSON: I CAN DO THAT, YOUR HONOR.

08:34AM 18 THE COURT: MR. NELSON, SORRY.

08:34AM 19 MR. NELSON: SO THE CCIE IS NOT GOING TO BE AN ISSUE.
08:34AM 20 I CAN TELL YOU WHAT -- MEANING I'M NOT USING THOSE.

08:34AM 21 THE COURT: SO THOSE DOCUMENTS WILL NOT BE COMING IN?

08:34AM 22 MR. NELSON: NO, NOT THE CCIE STUFF. THE ONLY THING
08:34AM 23 THAT I -- I CAN GIVE YOU AN OUTLINE, MAYBE THAT HELPS.

08:34AM 24 THE COURT: I JUST NEED -- SO THE MINUTE I GET TO
08:34AM 25 9:00 I'M USING YOUR TIME.

08:34AM 1 MR. NELSON: RIGHT. UNDERSTOOD.

08:34AM 2 THE COURT: THIS WAS AN OBJECTION TO HER TESTIMONY
08:34AM 3 GOING BEYOND THE 30(B)(6) DESIGNATIONS, AND I THINK WE ENLARGED
08:35AM 4 THAT TO ANYTHING SHE ACTUALLY TESTIFIED TO.

08:35AM 5 MR. NELSON: RIGHT.

08:35AM 6 THE COURT: MR. NUKEOM ACTUALLY DURING THE DEPOSITION
08:35AM 7 OBJECTED TO TESTIMONY THAT CROSSED THIS LINE CLAIMING SHE
08:35AM 8 HADN'T BEEN DESIGNATED. THESE DOCUMENTS DEAL DIRECTLY WITH THE
08:35AM 9 CERTIFICATION PROGRAMS. SO IF YOU'RE OFFERING THE EXHIBITS,
08:35AM 10 ARE YOU OFFERING THEM THROUGH MS. BAKAN?

08:35AM 11 MR. NELSON: NO. NO.

08:35AM 12 THE COURT: OKAY.

08:35AM 13 MR. NELSON: THAT IS AN ISSUE. WE HAVE TO DO THE
08:35AM 14 DESIGNATION A COUPLE OF DAYS AHEAD AND THEN IT GETS NARROWED AS
08:35AM 15 WE GO THROUGH.

08:35AM 16 SO WHAT HAPPENS IS WE SHOULD HAVE HAD AN INITIAL DISCUSSION
08:35AM 17 LAST NIGHT. SO I APOLOGIZE FOR THAT, YOUR HONOR. THAT ISN'T
08:35AM 18 AN ISSUE. REALLY ALL SHE'S TALKING ABOUT IS GOING TO BE THE
08:35AM 19 VALUE OF THE CLI. AND TO DO THAT SHE'S GOING TO TALK ABOUT
08:35AM 20 JUST BRIEFLY WHAT THE PRODUCTS ARE, THE SWITCH AND THE ROUTER,
08:35AM 21 THAT THE CLI IS A PART OF.

08:35AM 22 BUT REALLY, IT'S RELATIVELY SHORT AND FOCUSED, AND THE ONLY
08:35AM 23 EXHIBITS WOULD BE LIKE A DATA SHEET FOR SWITCH, I THINK IT IS,
08:36AM 24 THAT WOULD COME IN. SO WE ARE NOT DOING THE CCIE.

08:36AM 25 SO I DON'T KNOW IF THAT RESOLVES THAT

08:36AM 1 MR. FERRALL: IT DOES, YOUR HONOR. CCIE WAS THE
08:36AM 2 ONLY, WAS THE SCOPE THAT WE WERE OBJECTING.

08:36AM 3 THE COURT: OKAY. ALL RIGHT, THEN. IN ESSENCE, I
08:36AM 4 WILL BE GRANTING THAT. BUT BASED UPON MR. NELSON'S TESTIMONY,
08:36AM 5 THAT WON'T BE A PROBLEM.

08:36AM 6 THE SECOND WAS EXHIBIT --

08:36AM 7 MR. NELSON: THANK YOU, YOUR HONOR.

08:36AM 8 THE COURT: 633. AND THE OBJECTION THERE, THIS HAS
08:36AM 9 TO DO WITH REDACTIONS, WHO WILL BE ADDRESSING THAT FOR ARISTA.

08:36AM 10 MR. SANTACANA: I BELIEVE THAT CISCO HAS WITHDRAWN
08:36AM 11 THEIR OBJECTION TO THAT EXHIBIT.

08:36AM 12 THE COURT: I DIDN'T KNOW WHAT YOU WANTED REDACTED.
08:36AM 13 I READ THE PAGES YOU GAVE ME. IS THAT AGREED?

08:36AM 14 MR. PAK: YES, YOUR HONOR. I THINK IT'S BEEN
08:36AM 15 RESOLVED. WITHDRAWN, 633.

08:36AM 16 THE COURT: YOU HAVE WITHDRAWN THE EXHIBIT?

08:36AM 17 MR. PAK: YES, YOUR HONOR.

08:36AM 18 THE COURT: OKAY. THAT'S GOOD. ALL RIGHT.

08:37AM 19 THE THIRD ITEM WAS EXHIBIT 611 AND 3673. THESE ARE MANUALS
08:37AM 20 THAT ARE ALLEGED TO HAVE NEVER BEEN DISCLOSED.

08:37AM 21 MR. PAK: YES, YOUR HONOR.

08:37AM 22 WE HAVE WITHDRAWN THESE AS WELL.

08:37AM 23 THE COURT: OKAY. AND NUMBER 4 IS EXHIBIT 742, WHICH
08:37AM 24 IS CISCO'S 10-K.

08:37AM 25 MR. FERRALL: I THINK THAT'S BEEN WITHDRAWN AS WELL.

08:37AM 1 MR. PAK: FOR THIS ONE, YES, YOUR HONOR.

08:37AM 2 THE COURT: ALL RIGHT. THANK YOU. I APPRECIATE ALL
08:37AM 3 THAT WORK THAT YOU DID OVER THE WEEKEND.

08:37AM 4 NUMBER 5 IS EXHIBITS 757 AND 771 WHICH ARE THE STUART BIGGS
08:37AM 5 AND WENDELL ODOM BLOGS; IS THAT RIGHT?

08:37AM 6 MR. PAK: YES, YOUR HONOR. THAT'S NO LONGER AT ISSUE
08:37AM 7 ON THAT ONE, EITHER.

08:38AM 8 THE COURT: THAT'S RESOLVED?

08:38AM 9 MR. PAK: YES, YOUR HONOR.

08:38AM 10 THE COURT: OKAY.

08:38AM 11 AND NUMBER 6 IS A GROUP OF EXHIBITS, 3472, 4307, AND 5152
08:38AM 12 WHICH ARE TROUBLE SHOOTING GUIDES, ESSENTIALLY POWER POINTS AND
08:38AM 13 A POWER POINT ON UNDERSTANDING CISCO CULTURE

08:38AM 14 MR. PAK: YES, YOUR HONOR. AND I THINK THERE'S ONLY
08:38AM 15 ONE CURRENTLY IN DISPUTE IT'S THE 5152.

08:38AM 16 THE COURT: THAT'S THE -- THAT'S THE CULTURE.

08:38AM 17 MR. PAK: THAT'S RIGHT YOUR HONOR.

08:38AM 18 THE COURT: SO THE OTHER TWO ARE WITHDRAWN?

08:38AM 19 MR. PAK: YES, FOR THESE DAY ONE WITNESSES,
08:38AM 20 YOUR HONOR.

08:38AM 21 THE COURT: OKAY. AND THE 5152 -- THE OBJECTION IS
08:38AM 22 THAT -- WELL, I GUESS THE REAL QUESTION IS ARE THESE BUSINESS
08:39AM 23 RECORDS AND HOW ARE YOU SEEKING TO ADMIT THEM, MR. PAK?

08:39AM 24 MR. PAK: YES.

08:39AM 25 THIS DOCUMENT IS A POWER POINT, YOUR HONOR, THAT WAS GIVEN

08:39AM 1 BY MR. REMAKER TO THE TECHNICAL ASSISTANCE CENTER TEAM IN
08:39AM 2 JAPAN, AND THIS IS THE TYPE OF PRESENTATION THAT HE GIVES ON A
08:39AM 3 REGULAR BASIS.

08:39AM 4 HE TESTIFIED TO THAT, IN FACT, AT HIS DEPOSITION ON
08:39AM 5 PAGE 52, LINE 25 TO PAGE 53, TO LINE 11.

08:39AM 6 I WILL JUST READ BRIEFLY THE QUESTION AND ANSWER EXCHANGE,
08:39AM 7 YOUR HONOR.

08:39AM 8 "QUESTION: DID YOU GIVE SIMILAR PRESENTATIONS TO
08:39AM 9 OTHER TAC ENGINEERS ANYWHERE AROUND THE WORLD?

08:39AM 10 "ANSWER: YES.

08:39AM 11 "QUESTION: HOW FREQUENTLY WOULD YOU DO THAT?

08:39AM 12 "ANSWER: I'VE DONE IT AT DIFFERENT TIMES THROUGHOUT
08:39AM 13 MY CAREER AT CISCO. TYPICALLY, I WOULD GET CALLED ON MAYBE
08:39AM 14 ONCE OR TWICE A YEAR TO GIVE A PRESENTATION LIKE THIS TO A NEW
08:39AM 15 TACK CENTER OR A LARGE GROUP OF NEW HIRES."

08:39AM 16 THE TAC CENTER, YOUR HONOR, IS THE TRAINING FACILITIES THEY
08:39AM 17 HAVE. AND HE'S A DISTINGUISHED ENGINEER. HE MAKES THESE TRIPS
08:40AM 18 ON A REGULAR BASIS. WE BELIEVE THAT THIS IS A BUSINESS RECORD

08:40AM 19 THE COURT: AND THEY ARE BEING OFFERED -- SO THE
08:40AM 20 QUESTION -- I MEAN THE OBJECTION WAS THAT THIS IS NOT -- THAT
08:40AM 21 THIS WOULD BE HEARSAY. I'M NOT SURE WHAT YOU ARE OFFERING IT
08:40AM 22 FOR. THE UNDERLYING TRUTH OF THE REPRESENTATION MADE IN THE
08:40AM 23 POWER POINT, I'M NOT SURE HOW IT FITS INTO YOUR CASE.

08:40AM 24 MR. PAK: YOUR HONOR, I THINK IT'S REALLY MORE AS A
08:40AM 25 BASIS TO EXPLAIN, THIS IS A HELPFUL DOCUMENT FOR HIM TO EXPLAIN

08:40AM 1 SOME OF THE CISCO VALUES AND CULTURE ASPECTS RELATING TO THE
08:40AM 2 ORIGINATION PROCESS OF THE CLI COMMANDS. AND HE'S GOING TO USE
08:40AM 3 IT AS A DOCUMENT TO TALK ABOUT HISTORICALLY HOW CISCO HAS
08:40AM 4 EXPLAINED THE ENGINEERING COMMUNITY AS WELL AS THE CLI TO
08:40AM 5 VARIOUS TRAINING FACILITIES.

08:40AM 6 WE THINK IT'S A BUSINESS RECORD EXCEPTION TO HEARSAY, SO WE
08:40AM 7 THINK THAT THIS SHOULD COME IN LIKE MANY OF THE DOCUMENTS WE
08:40AM 8 WILL BE SEEING IN THE CASE THAT ARE POWER POINTS OR OTHER TYPES
08:40AM 9 OF THINGS THAT ARE REGULARLY CREATED.

08:41AM 10 THE COURT: SO, YOU KNOW, I DON'T KNOW WHAT POSITION
08:41AM 11 MR. REMAKER HAD, WHETHER HE WAS -- I DON'T KNOW WHAT HIS JOB
08:41AM 12 WAS. AND WHEN HE PROVIDED THIS DOCUMENT, IT WAS 2003 THAT THIS
08:41AM 13 WAS PREPARED.

08:41AM 14 MR. PAK: HIS JOB WAS DIRECTLY IN THIS AREA,
08:41AM 15 YOUR HONOR. HE WAS A SERVICE ENGINEER. SO HE PROVIDED
08:41AM 16 CUSTOMER SUPPORT. AND HIS PRESENTATION WAS DIRECTLY TO THE
08:41AM 17 TECHNICAL ASSISTANCE CENTER, WHICH IS FULL OF THE DISTINGUISHED
08:41AM 18 AND OTHER TYPES OF SERVICE ENGINEERS.

08:41AM 19 SO THIS WAS A PRESENTATION THAT WAS CREATED DURING HIS
08:41AM 20 REGULAR COURSE OF CONDUCT AND REPRESENTING THE COMPANY IN THAT
08:41AM 21 CAPACITY. SO WE THINK THIS IS --

08:41AM 22 THE COURT: AND HE PREPARED IT DURING THE REGULAR
08:41AM 23 COURSE OF HIS BUSINESS AND IT WAS MAINTAINED.

08:41AM 24 MR. PAK: ABSOLUTELY YOUR HONOR.

08:41AM 25 THE COURT: ALL RIGHT. LET ME HEAR THE OTHER SIDE OF

08:41AM 1 THIS AGAIN.

08:41AM 2 MS. MCCLOSKEY: YOUR HONOR, THIS POWER POINT IN
08:41AM 3 PARTICULAR IS NOTHING BUT A MARKETING PUFF PIECE. IT HAS KIND
08:41AM 4 OF LINES SUCH AS ENGINEERS ARE GRUMPY CONTROLS. WE DON'T THINK
08:41AM 5 THAT THERE'S ANY INDICATION THAT IN SPITE OF THE TESTIMONY THAT
08:42AM 6 MR. PAK JUST READ, THAT THIS WAS MADE AS A -- BY REGULARLY
08:42AM 7 CONDUCTED BUSINESS ACTIVITY OR KEPT IN THE REGULAR COURSE OF
08:42AM 8 BUSINESS, IT JUST DOESN'T SEEM TO US TO MEET THE BUSINESS
08:42AM 9 RECORDS EXCEPTION TO THE HEARSAY RULE.

08:42AM 10 THE COURT: WELL, I HAVE SOME CONCERNS ABOUT IT. I
08:42AM 11 HAVE NO CONCERN ABOUT MR. REMAKER'S TESTIMONY ABOUT WHAT HIS
08:42AM 12 UNDERSTANDING OF THE CULTURE WAS AND THE ENVIRONMENT HE WORKED
08:42AM 13 IN AND THAT HISTORICAL BACKGROUND IS NOT BEING OBJECTED TO.

08:42AM 14 THE DOCUMENT ITSELF DOES SEEM TO BE LAUDATORY AND
08:42AM 15 SELF-CONGRATULATORY, WHICH COMPANIES SHOULD DO, THAT'S A GOOD
08:42AM 16 THING FOR COMPANIES, IT DOESN'T MEAN IT'S TRUE AND I THINK IT
08:42AM 17 CAN CREATE SOMETHING OF A FALSE IMAGE THERE.

08:42AM 18 IT DOESN'T -- I DON'T KNOW THAT YOU HAVE THE RIGHT PEOPLE
08:42AM 19 TO ESTABLISH THAT IT'S A BUSINESS RECORD BASED UPON THE SHOWING
08:42AM 20 MADE BY CISCO. I WOULD GRANT THE MOTION TO EXCLUDE THE
08:42AM 21 DOCUMENT, ALLOWING MR. REMAKER CERTAINLY TO TESTIFY, EVEN THAT
08:43AM 22 HE PREPARED POWER POINTS AND TAUGHT ON THIS. THAT'S A TRUE
08:43AM 23 THING THAT HE CAN TESTIFY TO AND THAT'S NOT BEING OBJECTED TO.

08:43AM 24 MS. MCCLOSKEY: THANK YOU, YOUR HONOR.

08:43AM 25 MR. PAK: THANK YOU, YOUR HONOR.

08:43AM 1 THE COURT: ALL RIGHT. THANK YOU.

08:43AM 2 AND THEN LET'S MOVE ON TO THE SEVENTH ITEM WHICH WAS
08:43AM 3 EXHIBIT 4790. AND I THINK THE SAME ISSUES APPLY TO THE, LET'S
08:43AM 4 SEE, 4787 IS PRETTY SIMILAR. THIS IS A -- TO ME THIS WAS
08:43AM 5 REALLY QUITE A SIGNIFICANT MOTION, I HAVE REAL CONCERNS ABOUT
08:43AM 6 IT. EXHIBIT 4790 IS A -- IT'S A -- LET ME GET THE RIGHT
08:43AM 7 DESCRIPTION HERE. IT'S TOO HARD FOR ME TO PULL IT UP.

08:44AM 8 THIS IS A CHART THAT WAS PREPARED -- IT LOOKS LIKE IT WAS
08:44AM 9 IN RESPONSE TO DEFENSE INTERROGATORY NUMBER 31, AND THERE ARE A
08:44AM 10 NUMBER OF OBJECTIONS UNDER -- INDICATING BY ARISTA THAT IT'S
08:44AM 11 NOT ADMISSIBLE UNDER FEDERAL RULES OF EVIDENCE 1006.

08:44AM 12 I DON'T KNOW -- MAYBE, I'M NOT -- MR. NELSON, MR. PAK, WHO
08:44AM 13 IS ARGUING THIS?

08:44AM 14 MR. PAK: I WILL BE ARGUING THIS ONE.

08:44AM 15 THE COURT: I HAVE REAL CONCERNS ABOUT THIS. AND, OF
08:44AM 16 COURSE, I APPRECIATE RECEIVING THE CITATION TO THE PEAT, INC.,
08:44AM 17 VERSUS VANGUARD CASE THAT STRIKES FEAR IN A JUDGE.

08:44AM 18 MR. PAK: WELL, YOUR HONOR, I THINK IT GOES BACK TO
08:44AM 19 SOME OF THE EARLIER DISCUSSIONS THAT WE HAVE BEEN HAVING ABOUT
08:44AM 20 HOW TO PRESENT THE RELEVANT EVIDENCE IN THIS CASE.

08:44AM 21 THE COURT: SURE.

08:44AM 22 MR. PAK: WE -- AS WE'VE EXPLAINED TO YOUR HONOR FROM
08:45AM 23 DAY ONE, WE DON'T INTEND TO PRESENT INDIVIDUALIZED WITNESS
08:45AM 24 TESTIMONY FOR EVERY SINGLE COMMAND. WE DON'T THINK THAT IS
08:45AM 25 WHAT THIS CASE IS ABOUT. WE INTEND TO FOLLOW THE CDN MODEL AND

08:45AM 1 FOLLOW EVIDENCE ON THE PROCESS OF HOW THESE DIFFERENT BLOCKS
08:45AM 2 WERE CREATED. WE HAVE ALL OF THAT TESTIMONY READY TO GO,
08:45AM 3 STARTING TODAY.

08:45AM 4 THIS COMES ABOUT BECAUSE THERE WERE, AS YOUR HONOR KNOWS,
08:45AM 5 DETAILED INTERROGATORIES THAT WERE SERVED ON CISCO, BOTH DURING
08:45AM 6 FACT DISCOVERY AND THEN THERE WAS ONE INTERROGATORY RESPONSE IN
08:45AM 7 THE HELP DESCRIPTIONS THAT WERE SERVED AFTER DISCOVERY
08:45AM 8 PERSONALLY TO YOUR HONOR.

08:45AM 9 THE COMPANY HAS EXPENDED A LOT OF EFFORT TO CORRECT ALL
08:45AM 10 THIS INFORMATION ABOUT THE AUTHORSHIP INFORMATION RELATING TO
08:45AM 11 ETCH00 OF THE COMMAND ELEMENTS AS WELL AS THE HELP
08:45AM 12 DESCRIPTIONS. IT SHOWS EFFORT BY CISCO TO TRACK THIS
08:45AM 13 INFORMATION DOWN. IT CONSISTS OF NAMES OF AUTHORS, NAMES OF
08:45AM 14 SOURCE CODE FILES, DOCUMENTS THAT WERE BUSINESS RECORDS OF
08:45AM 15 CISCO, THAT SUMMARIZES IN ONE COMPLETE CHART ALL OF THE
08:46AM 16 ORIGINATION INFORMATION THAT WE HAVE.

08:46AM 17 WE COULD HAVE, I SUPPOSE, SOMEBODY SIT HERE AND TRY TO READ
08:46AM 18 THAT INFORMATION INTO THE RECORD OR TALK ABOUT THE PROCESS --

08:46AM 19 THE COURT: SO, MR. PAK, THE CHART ITSELF IS
08:46AM 20 BEAUTIFULLY CONSTRUCTED, AND IT IS EXACTLY THE KIND OF DOCUMENT
08:46AM 21 THAT RULE 1006 CONTEMPLATES AND THAT I WELCOME. BUT I ONLY
08:46AM 22 WELCOME IT IF IT MEETS THE VERY HIGH BURDEN UNDER 1006, BECAUSE
08:46AM 23 YOU ARE ABLE TO CONDENSE FOR THE JURY A LOT OF INFORMATION THAT
08:46AM 24 BECOMES EXTREMELY PERSUASIVE BECAUSE OF ITS CONDENSED FORM AND
08:46AM 25 FORMATTING THAT IS DIRECTED TO A LAY JURY.

08:46AM 1 SO IT IS THE CASES THAT ARISTA PROVIDED TO ME, I THOUGHT,
08:46AM 2 WERE REALLY VERY INSTRUCTIVE AND CONCERNING TO ME. CLEARLY YOU
08:46AM 3 HAD TO HAVE MADE AVAILABLE ALL OF THE UNDERLYING INFORMATION,
08:46AM 4 AND THOSE DOCUMENTS THEMSELVES EACH MUST BE SEPARATELY
08:46AM 5 ADMISSIBLE.

08:47AM 6 AND SO I HAVE CONCERN THAT YOU -- THE CHARGE THAT YOU DID
08:47AM 7 NOT TURN OVER EVERYTHING AND REFUSED TO DO SO BASED ON THE
08:47AM 8 COLLOQUY THAT WAS IN THE DEPOSITIONS PROVIDED TO ME, I HAVE THE
08:47AM 9 CONCERNS ABOUT WHETHER ANY OF THE DOCUMENTS, AND I'M ONLY
08:47AM 10 TALKING ABOUT THE SUPPORTING DOCUMENTS --

08:47AM 11 MR. PAK: YES, YOUR HONOR.

08:47AM 12 THE COURT: -- NOT THE CHART. BUT IF ANY OF THE
08:47AM 13 SUPPORTING DOCUMENTS WERE, THEMSELVES, CREATED DURING THE
08:47AM 14 LITIGATION, THAT IS A PROBLEM. AND THAT WAS MADE VERY CLEAR IN
08:47AM 15 THE CASES THAT WERE CITED, AND I THINK THIS WAS ALSO IN THE
08:47AM 16 PEAT, INC. CASE.

08:47AM 17 I HAVE FURTHER CONCERN THAT IF YOU WERE SUBMITTING AS
08:47AM 18 SUPPORTING DOCUMENTS E-MAILS THAT WE WILL BE HERE NIGHT AND DAY
08:47AM 19 AS REFERENCED IN THE BRIEF, THAT'S NOT GOING TO HAPPEN

08:48AM 20 MR. PAK: MAY I SUGGEST SOMETHING, YOUR HONOR?

08:48AM 21 THE COURT: YES.

08:48AM 22 MR. PAK: SO ON 4790, THAT IS THE DOCUMENT THAT DEALS
08:48AM 23 WITH THE COMMANDS. I BELIEVE THAT WE'VE PRODUCED ALL OF THE
08:48AM 24 SOURCE CODE IN THE UNDERLYING DOCUMENTS FOR THAT DOCUMENT.
08:48AM 25 THERE'S A SEPARATE ISSUE WITH RESPECT TO 4789 WHICH IS THE HELP

08:48AM 1 DESCRIPTIONS COMPILATION THAT HAPPENED AFTER FACT DISCOVERY,
08:48AM 2 PURSUANT TO YOUR HONOR'S ORDER. AND THERE I DO BELIEVE THERE
08:48AM 3 WERE SOME DOCUMENTS IDENTIFIED THAT HAD NOT BEEN PREVIOUSLY
08:48AM 4 PRODUCED BECAUSE THAT WAS DONE AFTER FACT DISCOVERY CUTOFF,
08:48AM 5 PURSUANT TO THE REQUEST TO PROVIDE ADDITIONAL INFORMATION OF
08:48AM 6 THE HELP DESCRIPTIONS.

08:48AM 7 THE COURT: OKAY. ALTHOUGH IT IS ARGUED THAT YOU
08:48AM 8 DIDN'T PROVIDE ALL THE SUPPORTING DOCUMENTS AS TO 4790.

08:48AM 9 MR. PAK: YES, YOUR HONOR. I BELIEVE THAT'S NOT
08:48AM 10 TRUE. BUT IN ANY EVENT, TO CUT TO THE CHASE, WE ARE NOT REALLY
08:48AM 11 INTERESTED IN THE UNDERLYING DOCUMENTATION OR THE SOURCE CODE.
08:48AM 12 OBVIOUSLY THIS IS A SUMMARY EXHIBIT THAT IS TRYING TO COMPILE
08:48AM 13 INFORMATION, AND WE ARE WILLING -- FOR EXAMPLE, THERE MAY BE
08:49AM 14 COLUMNS THAT TALK ABOUT SPECIFIC DOCUMENTS OR SOURCE CODE FOR
08:49AM 15 THOSE TABLES. WE ARE WILLING TO REDACT THOSE FROM THE EXHIBITS
08:49AM 16 BECAUSE REALLY WHAT WE ARE INTERESTED IN SHOWING TO THE JURY,
08:49AM 17 YOUR HONOR, IS THAT CISCO DID KEEP BUSINESS RECORDS AND
08:49AM 18 UNDERTOOK THE EFFORT TO FIND THE AUTHORSHIP INFORMATION IN
08:49AM 19 TERMS OF WHEN THESE COMMANDS WERE FIRST INTRODUCED, WHEN, WHO
08:49AM 20 AUTHORED THE DOCUMENT, WHO AUTHORED THESE PARTICULAR COMMANDS,
08:49AM 21 AND THEN THE OPERATING SYSTEMS.

08:49AM 22 THE COURT: MR. PAK, I THINK THAT MISSES THE POINT.
08:49AM 23 YOU CAN'T GIVE THE SUMMARY INFORMATION UNLESS IT'S BUILT ON THE
08:49AM 24 FOUNDATION OF ADMISSIBLE EVIDENCE. AND SO REDACTING THE
08:49AM 25 CITATION FOR THE JURY, OF THAT FOUNDATION, DOESN'T GET AT WHAT

08:49AM 1 I BELIEVE THE MOTION IS ARGUING IS THAT YOU CAN'T GIVE WHAT
08:49AM 2 IS -- IF IT WAS AN EXPERT, WOULD BE THE ULTIMATE OPINION, IT'S
08:49AM 3 JUST MUCH EASIER FOR EXPERTS BECAUSE THE UNDERLYING INFORMATION
08:50AM 4 DOESN'T HAVE TO BE ADMISSIBLE.

08:50AM 5 THIS IS VERY DIFFERENT. SO I BELIEVE, AM I READING TOO
08:50AM 6 MUCH INTO THE MOTION, THAT THIS STRIKES THE ENTIRE DOCUMENT?

08:50AM 7 MR. PAK: YOUR HONOR, WE COULD HAVE A LONG DISPUTE
08:50AM 8 ABOUT 4790, I REALLY HONESTLY BELIEVE THAT THOSE -- THAT THE
08:50AM 9 DOCUMENTS.

08:50AM 10 THE COURT: WELL, IF THERE IS AN E-MAIL THAT IT IS
08:50AM 11 BASED ON, THEN IT IS SUGGESTED THAT I HAVE A DUTY OF
08:50AM 12 DETERMINING INDIVIDUALLY THE ADMISSIBILITY AS A BUSINESS RECORD
08:50AM 13 OF THOSE E-MAILS.

08:50AM 14 MR. PAK: RIGHT. YOUR HONOR, WE BELIEVE THAT FOR
08:50AM 15 4790, THAT WE HAVE PRODUCED ALL THE E-MAILS THAT ARE UNDERLYING
08:50AM 16 THAT DOCUMENT, WHICH ARE THE PARSER POLICE E-MAILS AND --

08:50AM 17 THE COURT: SO THAT'S THE PRODUCTION THAT THERE WERE
08:50AM 18 FOUR SEPARATE OBJECTIONS TO 4790. ONE WAS THAT THE DOCUMENTS
08:50AM 19 WEREN'T MADE AVAILABLE. SO LET'S MOVE ON. YOU'VE GIVEN ME
08:50AM 20 YOUR POSITION ON THAT.

08:50AM 21 MR. PAK: YES.

08:50AM 22 THE COURT: SECOND WAS THAT YOU CAN'T ESTABLISH THAT
08:50AM 23 THE UNDERLYING DOCUMENTS ARE ADMISSIBLE. AND SO THERE WERE TWO
08:50AM 24 ASPECTS TO THAT.

08:50AM 25 MR. PAK: YES.

08:50AM 1 THE COURT: THAT IF ANY -- AND I DON'T KNOW THE
08:51AM 2 ANSWER TO THIS, IF ANY OF THE UNDERLYING DOCUMENTS WAS CREATED
08:51AM 3 FOR LITIGATION, THEN IT IS NOT AN ADMISSIBLE --

08:51AM 4 MR. PAK: YES, AND I APOLOGIZE, YOUR HONOR. I THINK
08:51AM 5 WE HAD THE NUMBERS MIXED UP. 4790 WAS THE HELP DESCRIPTIONS
08:51AM 6 DOCUMENT AND 4789 WAS THE COMMANDS.

08:51AM 7 THE COURT: OKAY.

08:51AM 8 MR. PAK: AND SO JUST ALL MY COMMENTS WITH RESPECT TO
08:51AM 9 4789 WOULD BE THE COMMANDS. ALL THOSE DOCUMENTS WERE PRODUCED,
08:51AM 10 YOUR HONOR. AND THEY WERE ALL BUSINESS RECORDS.

08:51AM 11 THEY CONSIST OF TECHNICAL DOCUMENTATION, E-MAILS THAT ARE
08:51AM 12 PART OF THIS PARSER POLICE, YOUR HONOR, THAT YOU HAVE BEEN
08:51AM 13 HEARING ABOUT, WHICH GO TO THE CREATION PROCESS OF THESE
08:51AM 14 COMMANDS.

08:51AM 15 AND SO WITH RESPECT TO 4789, AT LEAST, WHICH ARE THE
08:51AM 16 COMMAND DOCUMENTS, ALL OF THAT INFORMATION WAS PRODUCED,
08:51AM 17 YOUR HONOR, AND WE BELIEVE ARE BUSINESS RECORDS.

08:51AM 18 THE COURT: SO WHAT ABOUT THE ISSUE -- OKAY. SO WE
08:51AM 19 ARE OVER THE HUMP OF IT ALL BEING PRODUCED.

08:51AM 20 MR. PAK: YES.

08:51AM 21 THE COURT: WHAT ABOUT ESTABLISHING THAT THE
08:52AM 22 UNDERLYING DOCUMENTS ARE EACH INDIVIDUALLY ADMISSIBLE?

08:52AM 23 MR. PAK: WELL, SO I THINK THE WAY IT'S GOING TO WORK
08:52AM 24 IS WE HAVE MR. REMAKER --

08:52AM 25 THE COURT: NO, NO, NO. I'M SORRY. LET ME, BECAUSE

08:52AM 1 I WANT TO BE CAREFUL ABOUT YOUR TIME. IT'S -- YOU DON'T HAVE
08:52AM 2 TO, IN FRONT OF THE JURY, ESTABLISH THE ADMISSIBILITY OF THE
08:52AM 3 DOCUMENTS. THE JURY, BLESSEDLY, WOULD BE FREE OF THAT. I HAVE
08:52AM 4 TO BE PERSUADED THAT BEFORE I ADMIT THE SUMMARY, THAT THE
08:52AM 5 UNDERLYING DOCUMENTS ARE ADMISSIBLE. TYPICALLY THROUGH THE
08:52AM 6 DISCOVERY PROCESS AND TURNING THINGS OVER, I'VE NEVER ACTUALLY
08:52AM 7 HAD OBJECTIONS LIKE THIS. SO THIS IS JUST A DIFFERENT KIND OF
08:52AM 8 CASE.

08:52AM 9 MR. PAK: RIGHT.

08:52AM 10 THE COURT: SO WE ARE NOT TALKING ABOUT TRIAL TIME,
08:52AM 11 WE ARE TALKING ABOUT THIS KIND OF TIME. AND, OF COURSE, IF YOU
08:52AM 12 HAD A THOUSAND E-MAILS THAT WERE SUPPORTING 4790, WE WOULD,
08:52AM 13 AGAIN, BE SENDING THE JURY HOME AND PICKING A JURY IN 2019
08:52AM 14 BECAUSE THIS WOULD TAKE ME TOO MUCH TIME.

08:53AM 15 SO I'M FEELING LIKE YOU ARE -- UNLESS YOU HAVE CASE LAW
08:53AM 16 THAT SAYS THAT ARISTA IS WRONG BUT THEY GAVE ME DEFINITIVE CASE
08:53AM 17 LAW FROM OUT OF DISTRICT, THAT THEIR POSITION IS SOUND UNDER
08:53AM 18 1006

08:53AM 19 MR. PAK: WE BELIEVE YOUR HONOR THAT WE CITED CASES
08:53AM 20 AS WELL INDICATING THAT WHEN WE HAVE -- THIS GOES BACK TO THE
08:53AM 21 ISSUE -- SO SETTING ASIDE WHETHER IT'S A PROPER SUMMARY
08:53AM 22 DOCUMENT, I THINK WE ARE JUST GETTING TO THE ISSUE OF WHETHER
08:53AM 23 E-MAILS THAT HAVE BEEN MAINTAINED BY A COMPANY ARE BUSINESS
08:53AM 24 RECORDS WHEN THEY WERE CREATED DURING THE COURSE OF BUSINESS.

08:53AM 25 THIS IS AN E-MAIL -- YOUR HONOR, ALL THE E-MAILS WE ARE

08:53AM 1 TALKING ABOUT ARE NOT PERSONAL E-MAILS OR E-MAILS THAT ARE
08:53AM 2 BEYOND THE SCOPE OF THE EMPLOYEES'S OCCUPATION. THESE WERE ALL
08:53AM 3 COMMAND ENGINEERS, OR CLI ENGINEERS WHO WERE CREATING COMMANDS.

08:53AM 4 THIS WAS THE PARSER POLICE E-MAIL LIST, WHICH WAS A
08:53AM 5 COMPANY-CREATED E-MAIL LIST THAT MAINTAINED RECORDS OF ALL OF
08:53AM 6 THE DISCUSSIONS THAT HAPPENED BETWEEN THE COMMAND ENGINEERS ON
08:54AM 7 HOW THE CLI COMMANDS WERE CREATED. THIS IS PRECISELY, WE
08:54AM 8 BELIEVE, THE TYPE OF SUMMARY THAT WOULD HELP US

08:54AM 9 THE COURT: IT WILL HELP EVERYONE.

08:54AM 10 MR. PAK: YES.

08:54AM 11 THE COURT: IT MAY NOT BE PERSUASIVE, BUT IT IS THE
08:54AM 12 TYPE OF SUMMARY. SO HERE IS MY CONCERN, I MEAN, THERE ARE TWO
08:54AM 13 MORE ISSUES THAT ARE RAISED THAT I THINK ARE NOT AS SIGNIFICANT
08:54AM 14 AS THIS ONE BECAUSE I DON'T KNOW WHAT THE E-MAILS ARE.

08:54AM 15 I READ THE CASES THAT ARISTA PROVIDED TO ME. THEY WERE
08:54AM 16 RIGHT ON POINT. YOU READ THEM TOO.

08:54AM 17 MR. PAK: YES.

08:54AM 18 THE COURT: AND IT APPEARS, I THINK, THAT, OF COURSE
08:54AM 19 THE LAW HAS CERTAINLY EVOLVED SINCE THE EARLY CASE, THAT
08:54AM 20 E-MAILS ARE DEFINITELY OF THE TYPE OF DOCUMENT THAT CAN BE
08:54AM 21 BUSINESS RECORDS.

08:54AM 22 MR. PAK: YES.

08:54AM 23 THE COURT: THEY ARE NOT ALL BUSINESS RECORDS.

08:54AM 24 MR. PAK: OF COURSE.

08:54AM 25 THE COURT: AND SO YOU WANT TO SHOW THE PROCESS AND

08:54AM 1 THE CREATIVE ENERGY AND EFFORT THAT WENT INTO MAKING YOUR USER
08:55AM 2 INTERFACE THROUGH THESE DISCUSSIONS THAT WENT ON.

08:55AM 3 MR. PAK: YES.

08:55AM 4 THE COURT: AND I UNDERSTAND THAT. BUT I DON'T HAVE
08:55AM 5 A LIST OF THE E-MAILS, I DON'T HAVE THE TO AND THE FROM, I
08:55AM 6 DON'T HAVE THE DATE.

08:55AM 7 THERE ARE REALLY A LIST OF CRITERION THAT COURTS SET OUT TO
08:55AM 8 ESTABLISH WHAT ARE E-MAIL BUSINESS RECORDS. AND SO I THINK THE
08:55AM 9 BURDEN IS LOWER NOW THAN IT WAS IN 1994 WHEN THE FIRST CASE
08:55AM 10 CAME OUT WHEN COURTS WERE DESCRIBING WHAT E-MAIL IS TO THE
08:55AM 11 READER OF THE OPINION.

08:55AM 12 BUT WE ARE NOT THERE BECAUSE I DON'T ACTUALLY EVEN KNOW THE
08:55AM 13 SCOPE OF THIS. THIS IS AN ISSUE. IF YOU ARE PLANNING TO
08:55AM 14 INTRODUCE THIS DOCUMENT TODAY, WE ARE NOT READY.

08:55AM 15 MR. PAK: YOUR HONOR, MAY I SUGGEST SOMETHING ELSE?
08:55AM 16 WE DON'T HAVE TO INTRODUCE IT TODAY. WE HAVE AN EXPERT,
08:55AM 17 DR. ALMEROOTH, WHO CAN INTRODUCE IT. HE CAN BE A SPONSORING
08:55AM 18 WITNESS. HE WILL COME LATER IN THE WEEK.

08:55AM 19 IF YOUR HONOR WOULD LIKE -- WE DIDN'T HAVE A CHANCE,
08:55AM 20 YOUR HONOR, TO RESPOND, OBVIOUSLY IN WRITING. WE AGREED TO
08:56AM 21 THIS PROCEDURE WHERE THEY WOULD MAKE THE WRITTEN OBJECTION. WE
08:56AM 22 ARE ARGUING IT NOW.

08:56AM 23 THE COURT: I UNDERSTAND.

08:56AM 24 MR. PAK: IF YOUR HONOR WOULD PERMIT US TO FILE A
08:56AM 25 FILING TONIGHT THAT WOULD LAY OUT THE INFORMATION ON THE

08:56AM 1 E-MAILS, THE TYPES OF INFORMATION THAT YOUR HONOR WOULD NEED TO
08:56AM 2 MAKE A DETERMINATION AS TO THE ADMISSIBILITY OF THE UNDERLYING
08:56AM 3 RECORD.

08:56AM 4 THE COURT: SO THIS IS A BIG PROBLEM FOR ME BECAUSE
08:56AM 5 I'M GOING TO BE WORKING ON YOUR OBJECTIONS FOR TOMORROW
08:56AM 6 MORNING.

08:56AM 7 MR. PAK: YES.

08:56AM 8 THE COURT: SO I DON'T KNOW THAT YOU GET TO DO THAT.
08:56AM 9 LET'S GO ON.

08:56AM 10 MR. PAK: SURE.

08:56AM 11 THE COURT: THE THIRD OBJECTION IS THAT RULE 1006
08:56AM 12 REQUIRES THE PREPARER OF THE SUMMARY TO BE SUBJECT TO
08:56AM 13 CROSS-EXAMINATION, AND MR. LOUGHEED DOES NOT APPEAR TO BE THE
08:56AM 14 PREPARER OF THE DOCUMENT. SO YOU ARE GOING TO NEED TO BRING IN
08:56AM 15 THE PEOPLE WHO, OR -- IF IT'S A TEAM LEADER WHO WORKED WITH A
08:56AM 16 TEAM, I THINK THAT'S FINE.

08:56AM 17 MR. LOUGHEED DIDN'T APPEAR TO BE THE PERSON WHO CREATED AND
08:56AM 18 DIRECTED THE DEVELOPMENT OF THE DOCUMENT, BASED ON WHAT I WAS
08:56AM 19 PROVIDED FROM HIS DEPOSITION.

08:56AM 20 MR. PAK: SO MR. LOUGHEED -- SO LET'S BE CLEAR ABOUT
08:57AM 21 WHICH EXHIBIT WE ARE TALKING ABOUT. SO 4790, THAT'S THE HELP
08:57AM 22 DESCRIPTIONS.

08:57AM 23 THE COURT: THE HELP DESCRIPTIONS IS WHERE THIS IS
08:57AM 24 LAID OUT.

08:57AM 25 MR. PAK: THAT'S CORRECT. MR. LOUGHEED WAS NOT THE

08:57AM 1 TEAM LEADER, BUT MR. REMAKER WAS INVOLVED IN THE CREATION OF
08:57AM 2 THAT DOCUMENT.

08:57AM 3 4789, WHICH IS THE ONE THAT HAS ALL THE COMMAND
08:57AM 4 INFORMATION, MR. REMAKER WAS DIRECTLY INVOLVED, AND HE WAS THE
08:57AM 5 TEAM LEADER IN CREATING THAT DOCUMENT.

08:57AM 6 SO HE IS AVAILABLE TO BE CROSS-EXAMINED ON THAT.

08:57AM 7 THE COURT: OKAY. ALL RIGHT.

08:57AM 8 MR. PAK: AND HE WILL ALSO BE THE ONE THAT WILL LAY
08:57AM 9 THE FOUNDATION AS TO ALL OF THE PURPOSE AND THE EXISTENCE OF
08:57AM 10 THE PARSER E-MAIL.

08:57AM 11 THE COURT: THAT'S FINE. ALL RIGHT.

08:57AM 12 THE FOURTH OBJECTION WAS THAT THE DOCUMENT DOES NOT,
08:57AM 13 REGARDING SOME -- LET'S SEE. IT'S ARGUED THAT THE DOCUMENT IS
08:57AM 14 REplete WITH ASSERTIONS OF AUTHORS WITH NO DOCUMENTATION CITED
08:58AM 15 IN SUPPORT.

08:58AM 16 MR. PAK: YOUR HONOR, THESE ARE E-MAILS WHERE
08:58AM 17 ENGINEERS ARE TALKING ABOUT DO I LIKE THIS COMMAND? I DON'T
08:58AM 18 LIKE THAT COMMAND. HERE ARE THE CHOICES THAT THEY ARE MAKING
08:58AM 19 WITH RESPECT TO --

08:58AM 20 THE COURT: THERE'S JUST NO -- I MEAN, THERE'S JUST A
08:58AM 21 BLANK SPACE IN DOCUMENTS SUPPORTING IN THE CHART. I THINK
08:58AM 22 THAT'S ALL THIS REFERS TO.

08:58AM 23 MR. PAK: YES. I THINK THAT'S ALL THEY ARE REFERRING
08:58AM 24 TO. SOME OF THE DOCUMENTS, SOME OF THE COLUMNS WE DON'T HAVE
08:58AM 25 DOCUMENTS.

08:58AM 1 THE COURT: SO WHERE DID THAT COME FROM? SO IT CAN'T
08:58AM 2 BE A SUMMARY DOCUMENT IF IT'S BASED ON NOTHING.

08:58AM 3 MR. PAK: IT'S BASED ON OUR INVESTIGATION OF THE
08:58AM 4 SOURCE CODE, YOUR HONOR. THERE ARE TWO COLUMNS, YOUR HONOR.
08:58AM 5 IT'S THE COLUMN THAT HAS THE SOURCE CODE CHECK-IN INFORMATION,
08:58AM 6 SO THIS IS WHERE WE HAVE TWO FORMS OF BUSINESS RECORDS. ONE IS
08:58AM 7 THE ACTUAL SOURCE CODE THAT CORRESPONDS TO EACH OF THE
08:58AM 8 OPERATIONS.

08:58AM 9 THE COURT: YES, THAT COLUMN IS FILLED IN COMPLETELY.

08:58AM 10 MR. PAK: YES, YOUR HONOR. THAT IS THE BASIS FOR THE
08:58AM 11 AUTHORSHIP AND THE DATES. WE HAVE ANOTHER OPTIONAL COLUMN
08:59AM 12 WHERE WE DO HAVE ADDITIONAL INFORMATION.

08:59AM 13 AND I WOULD NOTE, YOUR HONOR, THE PEAT CASE THEY CITED FROM
08:59AM 14 THE ELEVENTH CIRCUIT, THE REASON WHY THAT LINE OF CASES SAYS
08:59AM 15 YOU HAVE TO BE CAREFUL OF E-MAIL SUMMARIES IS TO THE EXTENT
08:59AM 16 THOSE E-MAILS OR UNDERLYING DOCUMENTS WAS CREATED AS PART OF
08:59AM 17 LITIGATION OTHER THAN BUSINESS RECORDS, EVERYTHING WE CITED,
08:59AM 18 WHETHER IT'S IN THE SOURCE CODE COLUMN OR IT'S IN THE COLUMN OF
08:59AM 19 EVIDENCE RELATING TO ADDITIONAL E-MAILS THAT WERE CREATED, ALL
08:59AM 20 PREDATE THIS LAWSUIT

08:59AM 21 THE COURT: ALL RIGHT.

08:59AM 22 SO FOR ARISTA TO OBJECT ON THAT CASE BASIS I WOULD NEED TO
08:59AM 23 SEE WHICH UNDERLYING DOCUMENTS. AS A GENERAL PROPOSITION OF
08:59AM 24 LAW, THAT'S CORRECT, BUT I'M NOT MAKING A GENERAL RULING.

08:59AM 25 THE LAST THING ARISTA ARGUED WAS THAT COLUMN HEADINGS ARE

08:59AM 1 PREJUDICIAL REGARDING AUTHORS AND ORIGINATORS, AND ASK THAT BE
08:59AM 2 REDACTED, BUT I'M GOING TO DENY THAT REQUEST AND YOU CAN MAKE
08:59AM 3 THAT ASSERTION AS TO WHAT IT REPRESENTS IN YOUR VIEW.

08:59AM 4 LET ME HEAR BRIEFLY FROM ARISTA ON SOME OF THESE ISSUES
09:00AM 5 BECAUSE WE REALLY HAVEN'T GOTTEN PAST THE ADMISSIBILITY OF THE
09:00AM 6 UNDERLYING DOCUMENTS. AND I'M NOT QUITE SURE WHERE WE ARE
09:00AM 7 GOING TO GO FROM THERE.

09:00AM 8 MR. SANTACANA: THANK YOU, YOUR HONOR. EDUARDO
09:00AM 9 SANTACANA FOR ARISTA.

09:00AM 10 I THINK FIRST WITH RESPECT TO 4790, WHAT I HEAR MR. PAK
09:00AM 11 SAYING IS ESSENTIALLY THEY ARE NOT GOING TO OFFER IT. I THINK
09:00AM 12 IT'S UNDISPUTED THAT THE UNDERLYING DOCUMENTS WEREN'T PRODUCED,
09:00AM 13 WHICH IS WHY WE HAVEN'T BEEN TALKING ABOUT THE HELP DESK
09:00AM 14 DOCUMENT.

09:00AM 15 THE COURT: YOU THINK THEY ARE NOT GOING TO OFFER
09:00AM 16 THAT?

09:00AM 17 MR. SANTACANA: I COULD BE WRONG, BUT THE RULE
09:00AM 18 CLEARLY REQUIRES THE UNDERLYING DOCUMENTS BE PRODUCED, AND I
09:00AM 19 DID NOT HEAR MR. PAK TALK ABOUT IT WHILE HE WAS UP HERE.

09:00AM 20 THE COURT: THEN WHY DON'T YOU TWO TALK ABOUT THAT
09:00AM 21 BECAUSE PERHAPS THAT WILL BE RESOLVED.

09:00AM 22 MR. PAK: YES, YOUR HONOR, WE WILL DISCUSS THAT ON
09:00AM 23 4790.

09:00AM 24 MR. SANTACANA: AS FOR 4789, I THINK YOUR HONOR READ
09:00AM 25 THE PEAT CASE WHICH IS ON ALL FOURS. IT'S ABOUT DEFINING TRADE

09:01AM 1 SECRETS.

09:01AM 2 AND THE PLAINTIFF THERE WANTED TO GET AROUND THE HEARSAY
09:01AM 3 RULE, AND THE HARD WORK, AND I UNDERSTAND IT'S HARD WORK
09:01AM 4 PROVING HOW EACH OF THESE COMMANDS WERE AUTHORED BY CONDUCTING
09:01AM 5 WHAT IS ESSENTIALLY INVESTIGATION FOR PURPOSES OF LITIGATION,
09:01AM 6 AND THAT'S WHAT MR. PAK JUST SAID.

09:01AM 7 THIS IS THE RESULT OF THE LITIGATION-DRIVEN INVESTIGATION.
09:01AM 8 THE PERSON WHO SHOULD TESTIFY ABOUT THAT IS THE PERSON WHO
09:01AM 9 CONDUCTED THE INVESTIGATION. MR. PAK SAYS IT'S MR. REMAKER SO
09:01AM 10 I DON'T UNDERSTAND HOW, FOR EXAMPLE, THIS COULD BE OFFERED
09:01AM 11 THROUGH AN EXPERT LIKE DR. ALMEROTH.

09:01AM 12 BUT IN ADDITION TO THAT, IT IS FULL OF E-MAILS. THEY ARE
09:01AM 13 NOT ALL OF THE SAME KIND OF E-MAILS. SOME ARE PARSER POLICING
09:01AM 14 E-MAILS, SOME ARE JUST ONE-OFF E-MAILS, THE EARLIEST E-MAIL
09:01AM 15 THAT CISCO COULD FIND MENTIONING THE COMMAND.

09:01AM 16 IT ALSO MENTIONS, FOR EXAMPLE, A FIRST OPERATING SYSTEM.
09:01AM 17 OPERATING SYSTEMS LIKE IOS 10.3 HAVE NOT BEEN PRODUCED IN THIS
09:01AM 18 CASE. AS FAR AS I KNOW CISCO DOESN'T ACTUALLY HAVE IT ANYMORE.

09:02AM 19 SO I DON'T KNOW WHERE THAT INFORMATION COMES FROM.

09:02AM 20 THE COURT: WELL, I MEAN, WHETHER THAT LEVEL OF
09:02AM 21 PRODUCTION IS CONTEMPLATED BY 1006 IS NOT CLEAR TO ME.

09:02AM 22 IF THE E-MAIL IS THE FOUNDATION DOCUMENT, WHETHER YOU ARE
09:02AM 23 ENTITLED TO EVERY DOCUMENT THAT MIGHT BE MENTIONED IN THOSE
09:02AM 24 E-MAILS IS REALLY A DIFFERENT MATTER. AND SO I'M NOT PREPARED
09:02AM 25 TO GO DOWN THAT ROAD.

09:02AM 1 MR. SANTACANA: I MEANT SOMETHING SLIGHTLY DIFFERENT,
09:02AM 2 YOUR HONOR. MAKES ASSERTIONS ABOUT WHICH IS THE FIRST
09:02AM 3 OPERATING SYSTEM, BUT I DON'T KNOW WHERE THAT COMES FROM.
09:02AM 4 THERE'S NO DOCUMENT FROM ANY --

09:02AM 5 THE COURT: THIS HAS TO DO WITH 4789.

09:02AM 6 MR. SANTACANA: YES, THE COMMAND AUTHORSHIP.

09:02AM 7 THE COURT: OKAY. SO MR. PAK ASSERTED THAT
09:02AM 8 EVERYTHING WAS PRODUCED, AND HE WAS QUITE CERTAIN IT WAS.

09:02AM 9 MR. SANTACANA: EVERYTHING IN THE COLUMN THAT SAYS
09:02AM 10 EARLIEST KNOWN DOCUMENT WAS PRODUCED. WHERE IT SAYS SOURCE
09:02AM 11 CODE, THAT SOURCE CODE OF A LATER VERSION OF IOS. THE ONES
09:02AM 12 THAT CITE THINGS LIKE IOS 7 OR 8 OR 9, I MEAN, THERE'S
09:03AM 13 TESTIMONY IN THE CASE THOSE VERSIONS DON'T EVEN EXIST, SO I
09:03AM 14 DON'T KNOW HOW THEY COULD KNOW THAT.

09:03AM 15 AND THAT'S WHY THIS IS HEARSAY. THE REASON THEY KNOW THAT
09:03AM 16 IS PROBABLY BECAUSE THEY INVESTIGATED IT WITH THE PEOPLE AT
09:03AM 17 CISCO. THAT'S CLASSIC TESTIMONY SOMEBODY NEEDS TO ACTUALLY
09:03AM 18 INTRODUCE ON THE STAND, NOT CREATE A SUMMARY EXHIBIT FOR IT.

09:03AM 19 IN ADDITION TO THAT, YOUR HONOR, I THINK THE PEAT CASE
09:03AM 20 POINTS OUT THE BIGGEST PROBLEM IS THE PURPOSE. IF THE PURPOSE
09:03AM 21 WAS FOR LITIGATION, THE SUMMARY EXHIBIT ITSELF, AND IT'S
09:03AM 22 ESSENTIALLY HIDING --

09:03AM 23 THE COURT: WELL, LET'S BACK UP. YOU MADE THAT
09:03AM 24 ARGUMENT, AND I THINK THAT WAS INCORRECT. THAT'S WHAT SUMMARY
09:03AM 25 EXHIBITS ARE, THEY ARE PRODUCED FOR LITIGATION.

09:03AM 1 THE ISSUE IS WHETHER THE UNDERLYING DOCUMENTS, BECAUSE IN
09:03AM 2 THE ROGERS CASE THEY SAT AROUND A TABLE AFTER THEY SUED AND
09:03AM 3 SAID SO WHAT ARE OUR TRADE SECRETS AND THEY CREATED THE
09:03AM 4 FOUNDATIONAL DOCUMENTS. I'M ONLY TALKING ABOUT THE
09:03AM 5 FOUNDATIONAL DOCUMENTS. OF COURSE, THE SUMMARY WAS CREATED FOR
09:03AM 6 LITIGATION, THEY ARE ALWAYS CREATED FOR LITIGATION AND THEY
09:04AM 7 NEVER PREEXIST

09:04AM 8 MR. SANTACANA: THAT'S RIGHT, YOUR HONOR.

09:04AM 9 I GUESS WHAT I MEAN IS WHEN THE PURPOSE OF THIS DOCUMENT IS
09:04AM 10 TO IDENTIFY AN AUTHOR, IS TO PICK A NAME AND SAY THIS IS THE
09:04AM 11 PERSON WHO AUTHORED THE COMMAND, THAT'S THE SAME AS TRYING TO
09:04AM 12 DEFINE A TRADE SECRET, THAT'S A LEGAL QUESTION ABOUT WHO IS THE
09:04AM 13 PERSON WHO DID THE WORK FOR HIRE.

09:04AM 14 THE COURT: THAT'S A FAIR STATEMENT THAT THE -- WHO
09:04AM 15 THE AUTHOR IS MAY NOT COME FROM DOCUMENTATION, THERE MAY NOT BE
09:04AM 16 A BUSINESS RECORD THAT ATTRIBUTES AUTHORSHIP TO AN INDIVIDUAL.
09:04AM 17 THERE COULD BE, BUT THERE MAY NOT BE.

09:04AM 18 MR. SANTACANA: YOUR HONOR, CISCO FOUGHT US ON GIVING
09:04AM 19 US THIS ROG RESPONSE, AND THEIR CLAIM WAS THAT CISCO DOESN'T
09:04AM 20 IDENTIFY COPYRIGHT AUTHORS BECAUSE CISCO IS THE AUTHOR OF EVERY
09:04AM 21 COMMAND. AND JUDGE GREWAL DISAGREED, AND THAT'S WHY THIS
09:04AM 22 DOCUMENT WAS CREATED.

09:04AM 23 THE COURT: YES, YES.

09:04AM 24 MR. PAK: IF I COULD QUICKLY RESPOND. I KNOW WE ARE
09:04AM 25 GOING INTO OUR TIME NOW YOUR HONOR.

09:04AM 1 THE EARLIEST DOCUMENT, EVERYTHING HAS BEEN PRODUCED. ALL
09:04AM 2 OF THE INFORMATION HERE THAT IS IDENTIFIED RELATES TO THE
09:04AM 3 DOCUMENTARY EVIDENCE. WE HAVE THE SOURCE CODE. FOR EXAMPLE,
09:04AM 4 10.3, WE DID PRODUCE A CODE FOR 10.3. THAT'S THE CODE
09:05AM 5 IDENTIFIED THERE. WE HAVE A DISTRIBUTION BASE. WE HAVE ALL
09:05AM 6 THIS INFORMATION WE HAVE COLLECTED, AND AS COUNSEL FOR ARISTA
09:05AM 7 MENTIONED, WE DID THIS AT THEIR REQUEST. WE WENT OUT AND WE
09:05AM 8 COLLECTED. WE DIDN'T CREATE ANY LITIGATION DOCUMENTS,
09:05AM 9 YOUR HONOR. WE WENT OUT AND WE COLLECTED SOURCE CODE, WE
09:05AM 10 COLLECTED E-MAILS OF BUSINESS RECORDS. WE ORGANIZED THAT INTO
09:05AM 11 THE A TABLE FORM TO ADDRESS A REQUEST BY THEM IN THE
09:05AM 12 LITIGATION. THEY'VE HAD FULL OPPORTUNITY TO CONSIDER THIS
09:05AM 13 DOCUMENT AND TO DEPOSE NUMEROUS WITNESSES.

09:05AM 14 WE ARE PUTTING MR. REMAKER UP WHO IS THE TEAM LEADER IN
09:05AM 15 CHARGE OF COLLECTING THIS, ALL THIS INFORMATION. THERE'S
09:05AM 16 NOTHING IN HERE --

09:05AM 17 THE COURT: WELL, IF HE CONDUCTED THE INVESTIGATION
09:05AM 18 THEN HE'S THE ONE. THAT'S IMPORTANT.

09:05AM 19 MR. PAK: THAT'S RIGHT, YOUR HONOR.

09:05AM 20 THE COURT: WELL, MR. PAK, I DON'T KNOW HOW YOU COULD
09:05AM 21 PREPARE A RESPONSE. THIS DOCUMENT IS -- I -- I LOOKED AT THE
09:05AM 22 SUMMARY DOCUMENT, BUT ALL I COULD DO WAS REALLY GLEAN ITS
09:06AM 23 ORGANIZATION. AND THERE'S NOTHING ONE COULD DO TO PENETRATE
09:06AM 24 THE DOCUMENT. YOU ALL HAVE COMMAND OF THE UNDERLYING
09:06AM 25 DOCUMENTS, AND I HAVE A FLAVOR OF THE TYPES OF DOCUMENTS.

09:06AM 1 I HAVE REAL CONCERN ABOUT WHAT TYPE OF DOCUMENT YOU ARE
09:06AM 2 OFFERING IS THE FOUNDATIONAL DOCUMENT ON AUTHORSHIP, WHY THAT
09:06AM 3 ISN'T AS SUGGESTED, REALLY THE FRUIT OF AN INVESTIGATION THAT
09:06AM 4 WOULD REQUIRE LIVE TESTIMONY AS OPPOSED TO A SUMMARY DOCUMENT
09:06AM 5 THAT HAS -- ATTRIBUTES TO A NAME TO A PORTION OF THE
09:06AM 6 COPYRIGHTED MATERIAL AND AUTHOR.

09:06AM 7 I SUPPOSE I NEED SOME KIND OF EXEMPLAR THERE THAT SHOWS ME
09:06AM 8 WHAT THE FOUNDATIONAL DOCUMENT IS BECAUSE IT IS, UNLESS YOU
09:06AM 9 ACTUALLY PUBLISH A BOOK ALONG THE WAY THAT SAYS
09:06AM 10 CONGRATULATIONS, THIS YEAR YOU WON THE MOST AUTHORSHIP AWARDS
09:06AM 11 FOR CISCO OR SOMETHING.

09:06AM 12 AND I DON'T MEAN TO DEMEAN IT, THIS IS THE WORK AT THE
09:06AM 13 HIGHEST LEVEL AND THE MOST IMPORTANT, BUT IT SOUNDS LIKE THERE
09:07AM 14 IS NO DOCUMENT THAT ATTRIBUTES AUTHORSHIP THAT -- AS OPPOSED TO
09:07AM 15 DOCUMENTS THAT SHOW THE CREATIVE PROCESS THAT YOU ARE GOING TO
09:07AM 16 ARGUE.

09:07AM 17 MR. PAK: WE HAVE -- RIGHT. WE HAVE DOCUMENTS THAT
09:07AM 18 SHOW THE CREATIVE PROCESS. THAT'S NOT AT ISSUE. THESE
09:07AM 19 DOCUMENTS, YOUR HONOR, HOWEVER, FOR EXAMPLE, ALL THE SOURCE
09:07AM 20 CODE HAS THE IDENTIFICATION OF THE INDIVIDUALS WHO CHECKED IN
09:07AM 21 THE SOURCE CODE.

09:07AM 22 THE E-MAILS ACTUALLY HAVE A FROM/TO LINES. EVERYTHING THAT
09:07AM 23 WE'VE PRODUCED DOES INDICATE THE SOURCE OF THESE COMMANDS. AND
09:07AM 24 THAT'S WHY -- THAT'S THE REASON WHY WE COLLECTED THIS
09:07AM 25 INFORMATION.

09:07AM 1 WE ARE WILLING TO CONSIDER WITHDRAWING THE OTHER DOCUMENT
09:07AM 2 PER THE CONVERSATION, BUT I THINK THIS ONE WE HAD THE PERSON
09:07AM 3 WHO DID THE INVESTIGATION, EVERYTHING HAS BEEN ADMITTED, HAS
09:07AM 4 BEEN PRODUCED. THIS TYPE OF INFORMATION WILL HELP US CUT
09:07AM 5 THROUGH A LOT OF THE --

09:07AM 6 THE COURT: NO QUESTION IT WOULD. BUT OKAY. HERE'S
09:07AM 7 WHAT I DO NEED, I NEED TO GO THE NEXT LEVEL. I'M NOT WELCOMING
09:08AM 8 THIS BECAUSE OF THE TIME ISSUE, BUT I NEED TO KNOW -- I NEED
09:08AM 9 SOME EXEMPLARS.

09:08AM 10 MR. PAK: SURE, YOUR HONOR.

09:08AM 11 THE COURT: SO ARISTA NEEDS TO GIVE ME SOME EXEMPLARS
09:08AM 12 OF CATEGORIES YOU FEEL ARE NOT PROPERLY SUPPORTED AND SHOW ME
09:08AM 13 WHAT I -- I DON'T NEED TO SEE THE SOURCE CODE, BUT SHOW ME THE
09:08AM 14 DOCUMENTS -- BECAUSE I DON'T THINK YOU ARE OBJECTING TO THAT.
09:08AM 15 SHOW ME WHAT IS THE FOUNDATION OFFERED AND WHY IT'S
09:08AM 16 INSUFFICIENT. AND MR. PAK IS TO DO JUST THE OPPOSITE.

09:08AM 17 SO I'M GOING TO ASK YOU TO MEET AND CONFER AND SELECT THE
09:08AM 18 SAME EXEMPLAR FOR ME, OR 2 OR 3 EVEN, AND GIVE ME YOUR BEST
09:08AM 19 ARGUMENT. AND LET'S SEE WHAT WE HAVE. I DON'T KNOW THAT I
09:08AM 20 CONCLUDE BASED ON EXEMPLARS. YOU MAY SUBMIT IT BASED ON
09:08AM 21 EXEMPLARS AND WAIVE ANY FURTHER OBJECTION, I WELCOME THAT
09:08AM 22 STIPULATION. BUT THE MOST I CAN DO IS TO SEE THE EXEMPLARS SO
09:08AM 23 THAT I UNDERSTAND AT A DEEPER LEVEL WHAT WE HAVE

09:08AM 24 MR. PAK: THANK YOU, YOUR HONOR.

09:09AM 25 MR. SANTACANA: THANK YOU, YOUR HONOR.

09:09AM 1 THE COURT: I THINK THAT TAKES CARE OF THIS FOR AS
09:09AM 2 MUCH AS WE HAVE GOTTEN THROUGH TODAY.

09:09AM 3 IS OUR JURY PRESENT?

09:09AM 4 THE CLERK: YES, YOUR HONOR.

09:09AM 5 MR. VAN NEST: YOUR HONOR, I THINK WE'VE RESOLVED
09:09AM 6 ANYTHING PERTAINING TO THE OPENING STATEMENT. THE ONE THING
09:09AM 7 THE PARTIES NEED SOME TIME TODAY, IT CERTAINLY DOESN'T NEED TO
09:09AM 8 BE NOW, SOME GUIDANCE FROM YOU ON THESE VIDEO DEPOSITION
09:09AM 9 EXCERPTS AND SUBMITTING THEM AND TIMING. SO WE CAN DO THAT AT
09:09AM 10 THE BREAK.

09:09AM 11 THE COURT: I'VE GOT A CHART FROM YOU THAT PROVIDED
09:09AM 12 ME WITH THE DEPOSITION DESIGNATION AND THE NATURE OF THE
09:09AM 13 OBJECTION.

09:09AM 14 BUT WHERE'S THE DEPOSITION?

09:10AM 15 MR. VAN NEST: WE DON'T HAVE IT YET.

09:10AM 16 MR. SANTACANA: THEY WERE SUBMITTED DIGITALLY,
09:10AM 17 YOUR HONOR, WITH THE TRIAL EXHIBITS, THE DIGITAL VERSION OF THE
09:10AM 18 TRIAL EXHIBITS.

09:10AM 19 THE COURT: DID YOU REALLY THINK I WAS GOING TO LOOK
09:10AM 20 THROUGH SEVERAL MILLIONS OF PAGES OF DOCUMENTS TO FIND THAT?
09:10AM 21 YOU KNOW, I DON'T -- I WOULDN'T EVEN KNOW HOW TO BEGIN TO FIND
09:10AM 22 THAT. AND THE COURT HOUSE WAS CLOSED FOR THE LAST FOUR DAYS,
09:10AM 23 AND I WAS WORKING FROM SEVERAL THOUSAND MILES AWAY.

09:10AM 24 SO YOU DIDN'T SEND ME AN E-MAIL WITH THIS ON IT THAT I
09:10AM 25 RECALL. I JUST GOT A THREE-PAGE DOCUMENT. AND SO I DON'T

09:10AM 1 KNOW -- AND IF YOU SUBMITTED A VIDEOTAPE, WERE YOU EXPECTING ME
09:10AM 2 TO WATCH A VIDEOTAPE?

09:10AM 3 MR. VAN NEST: NO, NO, NO. I THINK THE ONLY ISSUE IS
09:10AM 4 WHAT FORMAT DO YOU WANT MATERIALS --

09:10AM 5 THE COURT: I JUST NEED THE TRANSCRIPT.

09:10AM 6 MR. VAN NEST: YOU NEED THE TRANSCRIPT WITH
09:10AM 7 OBJECTIONS NOTED IN IT?

09:10AM 8 THE COURT: WELL, YOU ARE GOING TO SEND ME THE
09:10AM 9 PORTION OF THE TRANSCRIPT THAT CONTAINS THE OBJECTION AND THE
09:10AM 10 TESTIMONY THAT'S BEING OFFERED SO THAT I CAN RULE ON THE
09:11AM 11 OBJECTION.

09:11AM 12 MR. VAN NEST: GREAT. AND YOU WANT THAT IN PAPER AND
09:11AM 13 THEN YOU MARK IT UP --

09:11AM 14 THE COURT: I NEED IT IN PAPER.

09:11AM 15 MR. VAN NEST: PAPER. OKAY. AND YOU NEED THAT TWO
09:11AM 16 DAYS BEFORE IT'S GOING TO BE PLAYED.

09:11AM 17 THE COURT: THAT WOULD BE HELPFUL, YES.

09:11AM 18 MR. VAN NEST: OKAY. SO YOU WILL GET A PAPER
09:11AM 19 TRANSCRIPT WITH THE -- ALL THE TESTIMONY THAT IS GOING TO BE
09:11AM 20 PLAYED, THE STUFF THAT'S OBJECTED TO MARKED AS OBJECTED WITH
09:11AM 21 THE OBJECTION NOTED, AND THEN YOU WILL READ IT, RULE ON IT,
09:11AM 22 GIVE IT BACK TO US, AND WE WILL CUT THE VIDEO.

09:11AM 23 THE COURT: BECAUSE THE CHART IS TERRIFIC AND IT
09:11AM 24 DOESN'T LOOK LIKE THERE'S A LOT IN DISPUTE. IT LOOKS LIKE I
09:11AM 25 CAN GET THROUGH THIS PRETTY QUICKLY.

09:11AM 1 MR. VAN NEST: I THINK YOU CAN.

09:11AM 2 THE COURT: AND YOU ARE GOING TO GIVE ME -- NOW, THE
09:11AM 3 ONE THINGS I NEED TO UNDERSTAND IS I HAVE NO IDEA WHO THESE
09:11AM 4 PEOPLE ARE. SO SOMETIMES READING AN OBJECTION DOESN'T HELP ME
09:11AM 5 BECAUSE I DON'T EVEN KNOW WHO THE DEPONENT IS.

09:11AM 6 MR. VAN NEST: AS I UNDERSTAND WHAT YOU WANT, YOU
09:11AM 7 WANT THE TRANSCRIPT WITH ALL THE TESTIMONY AND THAT WILL GIVE
09:11AM 8 YOU THE INTRODUCTION UPFRONT.

09:11AM 9 THE COURT: THAT WILL GIVE ME THE INTRODUCTION. IS
09:11AM 10 THIS JUST ONE PERSON?

09:11AM 11 MR. VAN NEST: NO. THERE'S GOING TO BE MULTIPLE OF
09:12AM 12 THESE THROUGHOUT THE TRIAL.

09:12AM 13 THE COURT: THIS IS ONLY ONE SUBMITTED.

09:12AM 14 MR. VAN NEST: I'M NOT SURE WHAT WAS SUBMITTED, BUT
09:12AM 15 THERE WILL BE MULTIPLE.

09:12AM 16 THE COURT: I HAVE ONE FROM MR. OF KAVESSERI. THAT'S
09:12AM 17 THE ONLY ONE I HAVE.

09:12AM 18 MR. SANTACANA: YOUR HONOR, I DON'T THINK THERE'S ANY
09:12AM 19 PENDING DISPUTE FROM DEPOSITION TESTIMONY TODAY. BUT THESE
09:12AM 20 DESIGNATIONS WILL BE CUT DOWN BY THEN.

09:12AM 21 MR. VAN NEST: THAT'S WHY I SAID, IT'S JUST THE
09:12AM 22 PROCEDURE WE NEED TO KNOW ABOUT. AND YOU'VE TOLD US WHAT YOU
09:12AM 23 WANT. YOU WANT PAPER WITH THE TRANSCRIPTS WITH THE TESTIMONY
09:12AM 24 MARKED AND THE OBJECTIONS AND YOU WILL RULE ON THEM.

09:12AM 25 THE COURT: THAT'S RIGHT.

09:12AM 1 MR. VAN NEST: YOU NEED THOSE A COUPLE OF DAYS BEFORE
09:12AM 2 THEY ARE PLAYED SO WE CAN GET YOUR RULING AND CUT THE VIDEO.

09:12AM 3 THE COURT: AND THEN YOU HAVE SOME WORK TO DO AS
09:12AM 4 WELL. YES. I'M SORRY. I THOUGHT -- BECAUSE THIS SHOWS
09:12AM 5 OBJECTIONS, I THOUGHT YOU SUBMITTED THAT. OKAY. THEN THAT'S
09:12AM 6 EASIER.

09:12AM 7 AND THEN I WAS GIVEN A PROPOSED ORDER CLARIFYING AN IN
09:12AM 8 LIMINE RULING WHICH I BELIEVE THIS TRACKS WHAT'S ON THE RECORD
09:12AM 9 SO THERE'S NO OBJECTION?

09:12AM 10 MR. PAK: NO OBJECTION.

09:12AM 11 MR. VAN NEST: THAT'S STIPULATED YOUR HONOR.

09:12AM 12 THE COURT: THANK YOU.

09:13AM 13 MR. VAN NEST: THE ONLY OTHER OPEN MATTER WAS WE DID
09:13AM 14 NOT RECEIVE A DISSECTION ORDER FROM YOUR HONOR, AND I'M NOT
09:13AM 15 COMPLAINING ABOUT THAT BECAUSE WE HAVE PRELIMINARY EXHIBIT, OR
09:13AM 16 INSTRUCTION 12 THAT THE PARTIES HAVE AGREED ON.

09:13AM 17 THE COURT: YES.

09:13AM 18 MR. VAN NEST: BUT I UNDERSTOOD THAT ONE OF THE
09:13AM 19 ISSUES THAT WAS STILL UP IN THE AIR IS WHETHER MODES AND
09:13AM 20 PROMPTS WERE ACTUALLY A METHOD OF OPERATION OR AN IDEA, WHETHER
09:13AM 21 THEY WERE GOING TO BE IN OR OUT.

09:13AM 22 THEY HAVE WITHDRAWN THE HIERARCHIES, OBVIOUSLY, BUT GIVEN
09:13AM 23 THE DESCRIPTION THAT WAS MADE BY MR. NELSON HERE OF MOVING FROM
09:13AM 24 ONE MODE TO ANOTHER, AND GIVEN THAT THEY ARE NOT CLAIMING ANY
09:13AM 25 PROTECTION IN THE INDIVIDUAL NAMES, I THOUGHT SURELY THAT WOULD

09:13AM 1 BE OUT AS A METHOD OF OPERATION OR AN IDEA THAT WASN'T
09:13AM 2 PROTECTABLE BY COPYRIGHT. AND IF THAT'S STILL PENDING, FINE,
09:13AM 3 WE HAVEN'T OBJECTED TO IT IN THEIR OPENING.

09:14AM 4 THE COURT: AND I APPRECIATE THAT. AND WHAT I HAVE
09:14AM 5 INTENDED AND HOPE TO DO IN THE NEXT COUPLE OF DAYS IS ISSUE A
09:14AM 6 TENTATIVE RILING, BECAUSE THERE ARE OTHER ISSUES I NEED TO
09:14AM 7 INCORPORATE BASED ON TESTIMONY.

09:14AM 8 BUT ON MODES AND PROMPTS I THINK THERE ARE ASPECTS OF IT
09:14AM 9 THAT COULD BE CONSIDERED A METHOD OR AN IDEA. I DON'T BELIEVE
09:14AM 10 THAT CISCO IS OFFERING IT IN THAT WAY.

09:14AM 11 I BELIEVE THAT IT IS A SELECTION AND ARRANGEMENT AS IT
09:14AM 12 APPEARS EXACTLY AS SUBMITTED. AND SO IT WILL -- IT IS -- IT
09:14AM 13 DOES NEED DISSECTION, REALLY, ALONG THE LINES THAT YOU
09:14AM 14 DESCRIBED, MR. VAN NEST, IS THE JURY WILL BE INSTRUCTED THAT ON
09:14AM 15 MODES AND PROMPTS, THE IDEA OF A MODE AND PROMPT IS NOT
09:14AM 16 PROTECTABLE. THAT THE METHOD OF MOVING FROM ONE TO ANOTHER IN
09:14AM 17 THIS PATH, IN A PATH, IS NOT PROTECTED. BUT THIS PARTICULAR
09:14AM 18 ARRANGEMENT OF A PATH IS THE SELECTION AND ARRANGEMENT THAT I
09:14AM 19 WILL ALLOW.

09:14AM 20 SO IT'S A VERY -- THERE'S REALLY VERY LITTLE LEFT. AND
09:15AM 21 IT'S REALLY CONSISTENT WITH EVERYTHING ELSE THAT I'VE TALKED
09:15AM 22 ABOUT WITH THE COMMANDS IS THAT THE INDIVIDUAL WORDS, AND EVEN
09:15AM 23 THE SELECTION OF A WORD, WE WILL GET TO SOME TESTIMONY ON THAT.
09:15AM 24 I THINK I WILL BE HEARING TESTIMONY ALONG THE LINES OF WHAT
09:15AM 25 YOU'VE TOLD ME THAT, IN FACT, THERE WERE VERY FEW CHOICES, EVEN

09:15AM 1 THOUGH THE THESAURUS IS BOUNTIFUL, IT WASN'T REALISTIC.

09:15AM 2 SO IT WILL JUST BE THE SELECTION AND ARRANGEMENT OF THE
09:15AM 3 PHRASE OR FRAGMENT, OR HOWEVER WE WANT TO DESCRIBE IT, THAT
09:15AM 4 WILL BE PROTECTABLE. AND MY VIEW ON MODES AND PROMPTS IS IT
09:15AM 5 REALLY IS CONSISTENT WITH THE OTHER

09:15AM 6 MR. VAN NEST: FAIR ENOUGH. WE LOOK FORWARD TO THAT.
09:15AM 7 THANK YOU, YOUR HONOR.

09:15AM 8 THE COURT: OKAY. WE ARE GOING TO BRING THE JURY IN.
09:15AM 9 LET ME JUST TELL YOU THAT THE JURORS, THEY WILL RETAIN THE
09:15AM 10 NUMBER THAT YOU HAVE ON THE JURY FORM, BUT THEY WILL BE
09:15AM 11 SITTING. THERE WON'T BE BLANK CHAIRS, OBVIOUSLY, FOR THE ONES
09:15AM 12 THAT HAVE BEEN DISMISSED.

09:16AM 13 WE HAVE 30 JURORS WHO HAVE BEEN HERE TODAY. AND WE ARE
09:16AM 14 GOING TO PUT JUROR NUMBER 1 IN THE BACK ROW CLOSEST TO THE
09:16AM 15 AUDIENCE, THROUGH 6, AND JUROR NUMBER 7 IN THE CHAIR CLOSEST TO
09:16AM 16 THE AUDIENCE IN THE FRONT, THROUGH 12, JUST THE WAY THEY SIT IN
09:16AM 17 THE JURY BOX.

09:16AM 18 THEN JUROR NUMBER 13 WILL BE OVER HERE ON THE ARISTA SIDE
09:16AM 19 ALL THE WAY IN THE CORNER. I DO SIX IN THE FRONT ROW, AND THEN
09:16AM 20 THE NEXT SIX IN THE FRONT ROW, AND THEN I WILL HAVE ONE FINAL
09:16AM 21 ROW STARTING THERE, AND WHO WILL SIT BEHIND THERE, AND FINISH
09:16AM 22 OUT OUR 30. JUST SO THAT YOU KNOW WHERE THEY ARE SITTING.

09:16AM 23 I THINK YOU WILL CALL THEM BY NAME, BUT IF YOU WANT TO SPOT
09:16AM 24 CHECK TO MAKE SURE PEOPLE ARE IN THEIR SEATS, EITHER I CAN DO
09:16AM 25 THAT OR YOU CAN. SO LET'S TAKE A BREAK. WE ARE GOING TO BRING

09:16AM 1 THE JURORS UP.

09:16AM 2 ARE THEY READY TO BE BROUGHT?

09:16AM 3 THE CLERK: YES.

09:16AM 4 THE COURT: ALL RIGHT.

09:16AM 5 (WHEREUPON A RECESS WAS TAKEN.)

09:28AM 6 THE COURT: GOOD MORNING, EVERYONE. PLEASE BE
09:28AM 7 SEATED.

09:28AM 8 WELCOME, EVERYONE. THANK YOU ALL FOR BEING HERE THIS
09:28AM 9 MORNING. I HOPE YOU HAD A WONDERFUL HOLIDAY BREAK, AND MAYBE
09:28AM 10 THE ABSENCE OF FOOD IN THE COURTROOM WILL BE A BLESSING FOR ALL
09:29AM 11 OF US TODAY. I KNOW IT WILL BE FOR ME.

09:29AM 12 LET ME BEGIN BY FORMALLY CALLING THE CASE. THIS IS CISCO
09:29AM 13 SYSTEMS, INC., V. ARISTA NETWORKS, INC. ALL OF OUR JURORS ARE
09:29AM 14 PRESENT NOW, AND I KNOW YOU ARE SEATED IN THE ORDER THAT YOUR
09:29AM 15 NAMES CAME UP ON OUR RANDOM LIST. SO THANK YOU ALL FOR THAT.

09:29AM 16 LET ME EXPLAIN WHAT WE ARE GOING TO DO TODAY. AND THEN I'M
09:29AM 17 GOING TO REINTRODUCE THE ATTORNEYS SO THAT YOU REALLY CAN MEET
09:29AM 18 THEM ALL AS YOU WILL THROUGHOUT THE JURY SELECTION.

09:29AM 19 THIS MORNING OUR JOB IS TO SELECT A JURY OF EIGHT PEOPLE
09:29AM 20 WHO WILL STAY HERE WITH US THROUGH THE END OF THE TRIAL TO HEAR
09:29AM 21 AND SEE ALL THE EVIDENCE AND TO DELIBERATE AFTER I PROVIDE JURY
09:29AM 22 INSTRUCTIONS TO THAT JURY.

09:29AM 23 YOU FILLED OUT A LENGTHY QUESTIONNAIRE FOR ME A WEEK AND A
09:29AM 24 HALF AGO. THANK YOU. THAT INFORMATION IS EXTRAORDINARILY
09:29AM 25 HELPFUL, AND IT ALLOWS US TO SELECT A JURY IN MUCH LESS TIME,

09:30AM 1 BOTHERING YOU LESS FROM YOUR BUSY SCHEDULES THAN WOULD BE THE
09:30AM 2 CASE IF I HAD TO QUESTION ALL OF YOU WITH EACH OF THOSE
09:30AM 3 QUESTIONS HERE IN OPEN COURT. SO THANK YOU FOR THAT.

09:30AM 4 AND THE ATTORNEYS WILL BE BASING THEIR QUESTIONS ON FURTHER
09:30AM 5 INFORMATION THEY NEED, AND THEY TOO WON'T NEED TO REPEAT WHAT
09:30AM 6 THEY'VE ASKED YOU, ALTHOUGH THEY ARE GOING TO ASK YOU SOME
09:30AM 7 CLARIFICATION ON THOSE ISSUES.

09:30AM 8 AS I MENTIONED TO YOU LAST WEEK, HAVING -- GIVEN ME THE
09:30AM 9 ANSWERS ON THE QUESTIONNAIRE, I ACTUALLY DON'T NEED TO ASK YOU
09:30AM 10 ANY FURTHER QUESTIONS. EVERY ONCE IN A WHILE I FOLLOW UP AFTER
09:30AM 11 THE ATTORNEYS, BUT IT'S PRETTY RARE BECAUSE THEY DO A TERRIFIC
09:30AM 12 JOB IN ASKING THE QUESTIONS.

09:30AM 13 NOW, AS I MENTIONED TO YOU LAST WEEK AS WELL, IT'S A LITTLE
09:30AM 14 AWKWARD TO BE IN A GROUP OF STRANGERS AND HAVE QUESTIONS ASKED
09:30AM 15 OF YOU ABOUT YOUR WORK AND YOUR EDUCATION AND YOUR LIFE
09:30AM 16 EXPERIENCES, BUT OUR PURPOSE IS IN FINDING A GROUP OF JURORS,
09:31AM 17 EIGHT PEOPLE, WHO CAN BE FAIR AND OPEN-MINDED, WHO CAN LISTEN
09:31AM 18 TO ALL OF THE EVIDENCE BEFORE YOU MAKE A DECISION, WHO WILL
09:31AM 19 LISTEN AND APPLY THE LAW THAT I GIVE YOU, WHETHER YOU AGREE
09:31AM 20 WITH THAT LAW OR NOT TO THE FACTS AS YOU FIND THEM.

09:31AM 21 AND SO AS JURORS, YOU JOIN ME AS JUDGES IN THE CASE. AND I
09:31AM 22 AM THE JUDGE OF THE LAW AND I PROVIDE THAT LAW TO YOU IN JURY
09:31AM 23 INSTRUCTIONS.

09:31AM 24 EACH OF YOU IS REQUIRED TO APPLY THAT LAW AND TO NOT GIVE
09:31AM 25 IT A DIFFERENT DEFINITION AS YOU WOULD LIKE THAT LAW TO BE.

09:31AM 1 AS I ALWAYS SAY TO JURORS, IF YOU ARE UNHAPPY WITH THIS
09:31AM 2 LAW, I RESPECT THAT, AND WRITE TO YOUR CONGRESS PERSON AND ASK
09:31AM 3 THAT THAT BE CHANGED. AND THROUGH THE LEGISLATIVE PROCESS, YOU
09:31AM 4 CAN GET THAT CHANGED, BUT THESE ARE THE RULES OF THE GAME IN
09:31AM 5 THIS COURTROOM TODAY.

09:31AM 6 I FOLLOW THE LAW, AND I KNOW ALL OF YOU WANT JUDGES WHO
09:31AM 7 FOLLOW THE LAW. AND AS JUDGES OF THE FACTS, IT IS YOUR
09:32AM 8 OBLIGATION TO FOLLOW THE LAW AS WELL.

09:32AM 9 NOW, THE SUBJECT MATTER OF THIS LAW MAY NOT BE OF CONCERN
09:32AM 10 ONE WAY OR THE OTHER AS TO WHAT THE LAW IS FOR MOST OF YOU. I
09:32AM 11 CERTAINLY HAVE HAD TRIALS WHERE PEOPLE FIND THE LAW TO BE
09:32AM 12 SOMETHING DIFFERENT THAN THEY WOULD LIKE AND THAT BECOMES AN
09:32AM 13 ISSUE. BUT IT'S ALWAYS OF CONCERN AND REQUIRED IN A COURT
09:32AM 14 HOUSE.

09:32AM 15 NOW, YOU ALSO HAVE TAKEN AN OATH TO TELL THE TRUTH. AND I
09:32AM 16 KNOW THAT YOU WILL. BUT I JUST NEED TO REMIND YOU THAT IT'S
09:32AM 17 IMPORTANT THAT YOU BE OPEN AND CANDID AND ANSWER THE QUESTIONS
09:32AM 18 FULLY. AND SOMETIMES YOUR ANSWER MAY CAUSE YOU TO SHOW A SIDE
09:32AM 19 OF YOURSELF THAT YOU MIGHT NOT BE AS PROUD OF AS YOU LIKE, BUT
09:32AM 20 I NEED YOU TO BE TRUTHFUL ABOUT IT.

09:32AM 21 SOMETIMES PEOPLE SIT AROUND THE COFFEE TABLE AND THINK UP
09:32AM 22 WAYS TO GET OFF JURY DUTY BY IMAGINING AND MAKING UP AND LYING
09:32AM 23 ABOUT CHARACTERISTICS THAT THEY DON'T ACTUALLY HAVE. AND THAT
09:32AM 24 WOULD BE WRONG AND THAT WOULD VIOLATE YOUR OATH. AND SO I KNOW
09:32AM 25 YOU WON'T DO THAT.

09:32AM 1 PLEASE ANSWER THESE QUESTIONS AS THOUGH YOU ARE ABOUT TO BE
09:33AM 2 SWORN IN AS A JUROR. AS I SAID LAST WEEK, YOU CAN DO THE ODDS
09:33AM 3 AND SEE THAT IT'S UNLIKELY TO BE YOU, BUT I NEED YOUR ANSWERS
09:33AM 4 BECAUSE JUST WHEN YOU THINK THAT, YOU'VE ZONED OUT ON YOUR
09:33AM 5 ANSWER, AND YOU'RE THE ONE STANDING IN YOUR BOX WITH YOUR HAND
09:33AM 6 UP TO TAKE THE OATH.

09:33AM 7 SO PLEASE BE CANDID AND OPEN ABOUT THAT.

09:33AM 8 NOW, WHAT I'M GOING TO DO THIS MORNING IS I'M GOING TO GIVE
09:33AM 9 EACH SIDE 30 MINUTES TO ASK YOU QUESTIONS. AND SO I AM GOING
09:33AM 10 TO BE THE TIME KEEPER ON THAT, AND THEN WHEN WE ARE DONE WITH
09:33AM 11 THAT, THEN I WILL EXPLAIN TO YOU HOW WE ARE GOING TO GO INTO
09:33AM 12 THE NEXT STEP.

09:33AM 13 SO WE HAVE ABOUT AN HOUR, AN HOUR AND FIVE MINUTES FROM NOW
09:33AM 14 BEFORE WE TAKE A BREAK AND DO THE JURY SELECTION. SO BEFORE I
09:33AM 15 DO THAT, I DO WANT TO INTRODUCE THE ATTORNEYS WHO ARE HERE.
09:33AM 16 AND WHAT I'M GOING TO DO IS INTRODUCE THE LEAD ATTORNEY ON EACH
09:33AM 17 SIDE AND ASK HIM TO INTRODUCE HIS TEAM.

09:33AM 18 AND SO LET'S ME START WITH THE PLAINTIFF, CISCO SYSTEMS,
09:34AM 19 AND INTRODUCE TO YOU DAVID NELSON

09:34AM 20 MR. NELSON: GOOD MORNING, EVERYBODY.

09:34AM 21 SO THE LAWYERS THAT YOU ARE GOING TO BE SEEING IN COURT, WE
09:34AM 22 HAVE A LOT OF FOLKS WORKING BEHIND THE SCENES, BUT I'M NOT
09:34AM 23 GOING TO INTRODUCE ALL THOSE PEOPLE.

09:34AM 24 BUT MR. SEAN PAK, HE WILL BE HERE. MR. JORDAN JAFFE. AND
09:34AM 25 THEN ALSO MS. CHRISTINE BAKAN, BAKAN, ACTUALLY, I SAID THAT

09:34AM 1 WRONG. AND I WILL DO THAT WITH YOUR NAMES TOO, UNFORTUNATELY,
09:34AM 2 I'M SORRY. I WILL DO THE BEST I CAN WITH THAT. SHE'S ACTUALLY
09:34AM 3 A SENIOR DIRECTOR AT CISCO, AND YOU WILL SEE HER HERE IN COURT
09:34AM 4 WITH US EVERY DAY. SHE WILL BE HERE AS WELL.

09:34AM 5 SO THANK YOU.

09:34AM 6 THE COURT: THANK YOU. AND LET ME INTRODUCE FOR
09:34AM 7 ARISTA NETWORKS, BOB VAN NEST.

09:34AM 8 MR. VAN NEST.

09:34AM 9 MR. VAN NEST: THANK YOU, YOUR HONOR. GOOD MORNING
09:34AM 10 EVERYBODY. AND THANKS FOR BEING HERE. I'M BOB VAN NEST, AND I
09:34AM 11 REPRESENT ARISTA NETWORKS.

09:34AM 12 AND WITH ME ARE BRIAN FERRALL AND DAVID SILBERT. YOU ARE
09:35AM 13 ALSO GOING TO BE HEARING FROM ELIZABETH MCCLOSKEY,
09:35AM 14 EDUARDO SANTACANA, AND MICHAEL KWUN. THEY ARE SITTING IN THE
09:35AM 15 BACK HERE BECAUSE YOU GUYS ARE FILLING UP THE FRONT.

09:35AM 16 WE HAVE A REPRESENTATIVE WITH US FROM ARISTA, SEAN
09:35AM 17 CHRISTOFFERSON. HE'S THE DEPUTY COUNTY COUNSEL, AND HE WILL BE
09:35AM 18 HERE THROUGHOUT THE DURATION OF THE TRIAL AS WELL.

09:35AM 19 SO THANK YOU FOR BEING HERE, AND WE LOOK FORWARD TO THE
09:35AM 20 CHANCE TO MEET WITH YOU AND TALK TO YOU A LITTLE BIT FURTHER

09:35AM 21 THE COURT: THANK YOU, MR. VAN NEST.

09:35AM 22 ALL RIGHT. I KNOW YOU SAW A PATENT VIDEO THIS MORNING.
09:35AM 23 THERE IS A PATENT INVOLVED IN THIS CASE LAST WEEK. AND I READ
09:35AM 24 A NEUTRAL STATEMENT OF THE CASE TO YOU. YOU KNOW WE ARE
09:35AM 25 DEALING WITH COPYRIGHT ISSUES AS WELL.

09:35AM 1 I AM GOING TO NOT WASTE ANY MORE TIME HERE AND ASK
09:35AM 2 MR. NELSON, WILL YOU BE ASKING THE QUESTIONS OF THE JURY?

09:35AM 3 MR. NELSON: YES, YOUR HONOR.

09:35AM 4 THE COURT: ALL RIGHT. I'M GOING TO TURN THIS OVER
09:35AM 5 TO MR. NELSON FOR 30 MINUTES OF QUESTIONING AND THANK YOU ALL.
09:35AM 6 GO AHEAD.

09:35AM 7 MR. NELSON: THANK YOU, YOUR HONOR.

09:35AM 8 ONE QUESTION, JUST BEFORE I GET GOING, WOULD YOU PREFER
09:35AM 9 THAT I REFER TO THE FOLKS BY THE NUMBER OR THEIR LAST NAME?

09:36AM 10 THE COURT: THE -- YOU CAN DO BOTH. THE NAME IS
09:36AM 11 PROBABLY HELPFUL BECAUSE THE NUMBER IS ONE WE MADE UP, IT'S NOT
09:36AM 12 THEIR OFFICIAL JURY NUMBER, IT'S JUST A SHORTCUT FOR US.

09:36AM 13 MR. NELSON: OH, OKAY.

09:36AM 14 THE COURT: SO EITHER WAY.

09:36AM 15 MR. NELSON: MEANING THE ONES I HAVE MIGHT NOT MATCH.

09:36AM 16 THE COURT: THAT'S RIGHT. THAT'S WHY I'M CONCERNED
09:36AM 17 ABOUT THOSE NUMBERS BECAUSE WE HAVE SOME THAT HAD BEEN EXCUSED
09:36AM 18 ALREADY. SO NAMES ARE GOOD.

09:36AM 19 MR. NELSON: AGAIN, I MIGHT HAVE TO ASK YOU HOW TO
09:36AM 20 PRONOUNCE. I WILL TRY TO DO THE BEST I CAN. BUT SOME NAMES
09:36AM 21 ARE A LITTLE DIFFICULT. MINE IS PRETTY EASY, FOR ME, AT LEAST.

09:36AM 22 SO I DO APPRECIATE YOU ALL BEING HERE, AND YOU KNOW, THIS
09:36AM 23 IS, AS THE JUDGE SAID, YOU KNOW, SOME OF THE QUESTIONS MAY BE A
09:36AM 24 LITTLE PERSONAL. WE ARE NOT TRYING TO DO THAT. WE ARE NOT
09:36AM 25 TRYING TO PRY. WE ARE JUST TRYING TO SEE IF YOU'RE THE RIGHT

09:36AM 1 JUROR FOR THIS PARTICULAR CASE. WE JUST WANT SOMEBODY THAT
09:36AM 2 COMES IN WITH AN OPEN MIND AND NOT ALREADY A PREDISPOSITION
09:37AM 3 GOING IN. SO THAT'S THE REASON FOR IT.

09:37AM 4 AND I APOLOGIZE IF YOU THINK ANYTHING IS GETTING A LITTLE
09:37AM 5 PERSONAL. I'M FROM THE MIDWEST, I REALLY DON'T LIKE TO ASK
09:37AM 6 QUESTIONS LIKE THIS, BUT I HAVE TO DO IT ANY WAY.

09:37AM 7 SO WITH THAT, I WOULD LIKE TO GET STARTED AND MS. CHUANG --
09:37AM 8 YOU DON'T HAVE TO STAND UP. I WILL STAND UP. YOU CAN STAY
09:37AM 9 SEATED.

09:37AM 10 SO I JUST HAVE A FEW QUESTIONS. IT LOOKED FROM YOUR
09:37AM 11 QUESTIONNAIRE LIKE YOU MAY BE IN THE TECH INDUSTRIES; IS THAT
09:37AM 12 RIGHT?

09:37AM 13 PROSPECTIVE JUROR: YES.

09:37AM 14 MR. NELSON: WHAT KIND OF POSITION DO YOU HAVE?

09:37AM 15 PROSPECTIVE JUROR: I HAVE -- I'M A PRODUCT MANAGER
09:37AM 16 AT A SOFTWARE COMPANY.

09:37AM 17 MR. NELSON: OKAY. WHAT SOFTWARE COMPANY IS THAT?

09:37AM 18 PROSPECTIVE JUROR: WE DO MEDICINE, BASICALLY
09:37AM 19 PLATFORM -- VIDEO CONFERENCING.

09:37AM 20 MR. NELSON: THANK YOU.

09:37AM 21 AND SO I ALSO NOTICE THAT YOU HAVE SOME EXPERIENCE WITH
09:37AM 22 SOME CISCO PRODUCTS; IS THAT RIGHT?

09:37AM 23 PROSPECTIVE JUROR: NO, JUST GENERAL. CISCO PRODUCTS
09:37AM 24 ARE EVERYWHERE. SO I SAID IN THE TECH INDUSTRY WE USE IT ALL
09:38AM 25 THE TIME.

09:38AM 1 MR. NELSON: AND BASED UPON YOUR EXPERIENCE, DO YOU
09:38AM 2 HAVE AN OPINION OF CISCO COMING IN?

09:38AM 3 PROSPECTIVE JUROR: DEPENDS ON WHICH PRODUCT. IT
09:38AM 4 DOESN'T MATTER, IT'S ALL PRODUCT, COMPRISED AND PICK A PRODUCT.

09:38AM 5 MR. NELSON: NOW, YOU ALSO HAD MENTIONED THAT YOU HAD
09:38AM 6 A CLOSE COUSIN THAT WORKS AT CISCO.

09:38AM 7 PROSPECTIVE JUROR: I HAVE A COUSIN THAT I LIVED WITH
09:38AM 8 FOR TWO YEARS.

09:38AM 9 MR. NELSON: ARE YOU IN CONTACT WITH HER STILL?

09:38AM 10 PROSPECTIVE JUROR: YEAH. WE HAVE DINNER TOGETHER
09:38AM 11 EVERY WEEK.

09:38AM 12 MR. NELSON: DO YOU THINK THAT CONNECTION WOULD
09:38AM 13 AFFECT ANYTHING IN THE CASE HERE?

09:38AM 14 PROSPECTIVE JUROR: I DON'T THINK SO BECAUSE I WASN'T
09:38AM 15 EVEN AWARE OF HAVING THIS CASE. BUT YOU KNOW, LIKE, IF THE
09:38AM 16 CASE IS WELL KNOWN, THEN IT'S, YOU KNOW, IT'S A DISCUSSION
09:38AM 17 SOMETIMES WE HAVE AT FAMILY DINNERS ABOUT THINGS.

09:38AM 18 MR. NELSON: YEAH. SO -- AND THE JUDGE WILL, YOU
09:38AM 19 KNOW, OBVIOUSLY INSTRUCT YOU NOT TO TALK ABOUT THE CASE, BUT IN
09:38AM 20 TERMS OF HAVING A CLOSE RELATIVE LIKE THAT AT CISCO, DO YOU
09:38AM 21 THINK THAT THAT WOULD, YOU KNOW, AFFECT YOUR ABILITY IN THE
09:39AM 22 CASE, JUST TO KIND OF COME IN AT A NEUTRAL LEVEL?

09:39AM 23 PROSPECTIVE JUROR: IT'S A HARD QUESTION TO ANSWER.

09:39AM 24 MR. NELSON: I KNOW IT IS. I'M SORRY.

09:39AM 25 PROSPECTIVE JUROR: WELL, YES -- NO. I DON'T KNOW.

09:39AM 1 IT'S EITHER YES OR NO. IT'S EITHER A YES OR NO.

09:39AM 2 MR. NELSON: WELL, TELL ME WHY IT MIGHT BE A LITTLE
09:39AM 3 BIT YES.

09:39AM 4 PROSPECTIVE JUROR: WELL, I MEAN, I DON'T KNOW
09:39AM 5 ANYTHING ABOUT THE SPECIFIC CASE, RIGHT? SO LIKE ONCE I HEAR
09:39AM 6 MORE ABOUT IT, I MAY HAVE OPINIONS THAT I WOULD LIKE TO TALK
09:39AM 7 ABOUT IT, BUT IT'S REALLY HARD TO NOT TALK ABOUT IT. BUT I
09:39AM 8 WOULD NOT TALK ABOUT IT WITH THIS PARTICULAR COUSIN, OBVIOUSLY.

09:39AM 9 MR. NELSON: UNDERSTOOD. WHAT POSITION DOES YOUR
09:39AM 10 COUSIN HAVE THERE?

09:39AM 11 PROSPECTIVE JUROR: I THINK SHE'S AN ENGINEER.

09:39AM 12 MR. NELSON: DO YOU KNOW WHAT SHE DOES?

09:39AM 13 PROSPECTIVE JUROR: NOT IN DETAIL, NO, NOT REALLY.

09:39AM 14 MR. NELSON: OKAY. NOW, THERE'S ALSO YOU HAD
09:39AM 15 MENTIONED, I BELIEVE, THAT YOU MIGHT HAVE CLOSE RELATIVES THAT
09:40AM 16 HAVE STOCK; IS THAT RIGHT?

09:40AM 17 PROSPECTIVE JUROR: I THINK HAVING CISCO STOCK IS NOT
09:40AM 18 REALLY AN UNCOMMON THING.

09:40AM 19 MR. NELSON: NO, UNDERSTOOD. I'M NOT CASTING ANY
09:40AM 20 ASPERSIONS OR ANYTHING, I'M JUST ASKING.

09:40AM 21 PROSPECTIVE JUROR: SHE HAS STOCKS, AND I THINK HER
09:40AM 22 SIBLINGS ALL HAVE STOCKS. MY UNCLE HAS CISCO STOCK.

09:40AM 23 MR. NELSON: THOSE RELATIVES, DO YOU KNOW HOW CLOSE
09:40AM 24 YOU ARE WITH THOSE?

09:40AM 25 PROSPECTIVE JUROR: CLOSE.

09:40AM 1 MR. NELSON: HOW OFTEN DO YOU SEE THEM, DO YOU THINK?

09:40AM 2 PROSPECTIVE JUROR: ONCE A WEEK.

09:40AM 3 MR. NELSON: NOW, I DON'T WANT TO GET INTO THE
09:40AM 4 DETAILS, BUT YOU HAD -- YOU KNOW THIS IS A PATENT CASE THAT
09:40AM 5 INVOLVES PATENTS AND COPYRIGHTS IN THE CASE?

09:40AM 6 PROSPECTIVE JUROR: UH-HUH.

09:40AM 7 MR. NELSON: RIGHT. AND YOU ARE FAMILIAR WITH
09:40AM 8 PATENTS AND COPYRIGHTS?

09:40AM 9 PROSPECTIVE JUROR: UH-HUH.

09:40AM 10 MR. NELSON: SO I DON'T WANT TO GET INTO THE DETAILS
09:40AM 11 OF, YOU KNOW, WHAT YOU EXPRESSED IN THE -- IN YOUR
09:40AM 12 QUESTIONNAIRE, BECAUSE I APPRECIATE THAT, WE ARE NOT GOING TO
09:40AM 13 GO BACK THROUGH THAT.

09:40AM 14 BUT, YOU KNOW, GIVEN YOUR EXPERIENCE THERE AND YOUR
09:40AM 15 THOUGHTS, DO YOU THINK THIS IS MAY BE THE RIGHT CASE?

09:40AM 16 PROSPECTIVE JUROR: RIGHT CASE IN TERMS OF?

09:41AM 17 MR. NELSON: IN TERMS OF IT'S GOING TO INVOLVE
09:41AM 18 PATENTS AND COPYRIGHTS, RIGHT. MEANING, DO YOU THINK THAT THIS
09:41AM 19 IS THE RIGHT CASE FOR YOU OR DO YOU HAVE SOME KIND OF
09:41AM 20 PRECONCEIVED IDEA OF PATENTS AND COPYRIGHTS AND MAYBE WHAT THEY
09:41AM 21 SHOULD BE USED FOR?

09:41AM 22 PROSPECTIVE JUROR: WELL, SO THIS IS A HARD ANSWER --
09:41AM 23 THIS IS A HARD QUESTION TO ANSWER.

09:41AM 24 SO I'VE NEVER BEEN IN A CASE THAT'S INVOLVED. SO BACK WHEN
09:41AM 25 I WAS WORKING FOR A LARGE COMPANY LIKE THERE ARE CERTAIN

09:41AM 1 PRACTICES OF FILING PATENTS THAT I'M NOT EXTREMELY LIKE FOND
09:41AM 2 OF. I THINK IT HAS A LOT TO DO WITH THE STRUCTURE OF A
09:41AM 3 COMPANY, THE SIZE OF THE COMPANY, AND THE ATTITUDE THE COMPANY
09:41AM 4 TAKES ON THAT.

09:41AM 5 I WORK FOR A SMALLER COMPANY WHERE LIKE WE DON'T EVEN
09:41AM 6 BOTHER TO FILE PATENTS BECAUSE WE KNOW IT'S LARGELY NOT
09:41AM 7 DEFENDABLE, THERE'S HUNDREDS AND DOZENS OF PATENTS IN MY AREA,
09:41AM 8 AND, YOU KNOW, WE STARTED DOING SOME PATENT FILING AND AT SOME
09:41AM 9 POINT WE JUST GAVE UP BECAUSE IT'S, YOU KNOW, IT'S REALLY LIKE
09:42AM 10 ACTUALLY TAKING SOME TIME AWAY AND RESOURCES AWAY FROM US. SO
09:42AM 11 IT'S PROBABLY NOT GOOD FOR US.

09:42AM 12 BUT, YOU KNOW, I UNDERSTAND THAT THERE COULD BE A REASON IN
09:42AM 13 THE FUTURE FOR US. AND FOR A LARGE COMPANY, I KNOW ALL
09:42AM 14 ENGINEERS SIT DOWN, AND SOME DAY A LAWYER IS GOING TO COME DOWN
09:42AM 15 AND DO A LITTLE ONE-PAGE SKETCH, AND TURN IT INTO A PATENT,
09:42AM 16 VERY EASY. SO IF YOU WORK FOR A COMPANY LIKE THAT, IT'S VERY
09:42AM 17 EASY TO OBTAIN A PATENT.

09:42AM 18 WHEN YOU WORK FOR A SMALL COMPANY LIKE US, A SMALL COMPANY,
09:42AM 19 YOU ARE NOT GOING TO EVEN TRY THAT ROUTE. SO THAT'S MY
09:42AM 20 OPINION.

09:42AM 21 AND THEN ALSO THIS KIND OF SCALE OF THE DEPARTMENT WHERE,
09:42AM 22 LIKE, TEAMS OF LAWYERS WHOSE JOB IS FULL TIME TO ACTUALLY WORK
09:42AM 23 ON THESE THINGS. THAT'S JUST SORT OF MY BIAS FEELING LIKE
09:42AM 24 THIS, IT'S A LARGELY UNFAIR PROCESS.

09:42AM 25 MR. NELSON: SO YOU THINK IT'S UNFAIR THAT BIG

09:42AM 1 COMPANIES MIGHT HAVE PATENTS, SOME OF THE MORE PATENTS --

09:42AM 2 PROSPECTIVE JUROR: RIGHT. IT'S NOT UNFAIR MEANING

09:43AM 3 LIKE, YOU KNOW, LIKE, IT'S THE INVENTOR PROTECTING THE

09:43AM 4 INVENTORS, I MEAN, IT DOES THE JOB BUT IT'S NOT THAT GREAT.

09:43AM 5 MR. NELSON: WHAT DO YOU MEAN WHEN YOU SAY, "NOT THAT
09:43AM 6 GREAT"?

09:43AM 7 PROSPECTIVE JUROR: LIKE, YOU KNOW, FOR INSTANCE, IF

09:43AM 8 I INVENTED SOMETHING, WORKING FOR A COMPANY LIKE MY COMPANY, I

09:43AM 9 DON'T THINK WE HAVE THE LUXURY TO GO OUT AND TRY TO FILE THAT

09:43AM 10 PATENT BECAUSE IT TAKES THE RESOURCES AWAY FROM US, AND IT

09:43AM 11 COSTS MONEY TO FILE PATENTS. AND, YOU KNOW, IT TAKES TIME TO

09:43AM 12 ACTUALLY WRITE THE PATENTS, AND WE ARE ALL VERY BUSY.

09:43AM 13 BUT IF YOU WORK FOR A BIGGER COMPANY THEN IT'S NO ISSUE,

09:43AM 14 IT'S PRETTY EASY TO SET IT UP FOR YOU.

09:43AM 15 MR. NELSON: SO DOES THAT AFFECT YOUR THOUGHTS ABOUT

09:43AM 16 WHAT THE QUALITY OF PATENTS MIGHT BE GOING IN FOR BIG

09:43AM 17 COMPANIES?

09:43AM 18 MR. SANTACANA: PROBABLY NOT. BUT IT DEPENDS ON THE

09:43AM 19 CASE.

09:43AM 20 MR. NELSON: NOW, HOW ABOUT COPYRIGHTS, YOU SAID YOU

09:43AM 21 WORK IN THE SOFTWARE INDUSTRY; IS THAT RIGHT?

09:43AM 22 PROSPECTIVE JUROR: YES.

09:43AM 23 MR. NELSON: SO, I MEAN, DO YOU HAVE ANY THOUGHTS

09:43AM 24 ABOUT COPYRIGHTS AND SOFTWARE?

09:43AM 25 PROSPECTIVE JUROR: I DON'T HAVE STRONG OPINIONS

09:44AM 1 ABOUT COPYRIGHT. YOU KNOW, IT'S SERVES A SLIGHTLY DIFFERENT
09:44AM 2 PURPOSE THERE. SO I DON'T HAVE PERSONAL EXPERIENCE AS MUCH
09:44AM 3 WITH COPYRIGHT INFRINGEMENT.

09:44AM 4 MR. NELSON: DO YOU HAVE ANY COPYRIGHTS YOURSELF OR
09:44AM 5 SOFTWARE YOU BOUGHT?

09:44AM 6 PROSPECTIVE JUROR: NO.

09:44AM 7 MR. NELSON: DO YOU WRITE SOFTWARE?

09:44AM 8 PROSPECTIVE JUROR: YES, YEARS AGO, NOT TODAY, BUT
09:44AM 9 YEARS AGO.

09:44AM 10 MR. NELSON: ALL RIGHT. SO MR. -- I MIGHT COME BACK.
09:44AM 11 BUT, YEAH, YOU CAN PASS THE MIC TO MR. GRIER-RODDY.

09:44AM 12 SO I NOTICE YOU POSSIBLY OWN STOCK, YOU THOUGHT MAYBE. DID
09:44AM 13 YOU GET A CHANCE TO CHECK ON THAT?

09:44AM 14 PROSPECTIVE JUROR: I JUST GO AND HIT NEXT FUNDS -- I
09:44AM 15 OWN JUST INDEX FUNDS. SO I'M SURE CISCO IS A PERCENTAGE OF
09:45AM 16 THAT, BUT I DON'T OWN ANY PARTICULAR CISCO SHARES.

09:45AM 17 MR. NELSON: OKAY. AND YOU HAD INDICATED THAT YOU'RE
09:45AM 18 AN OPERATIONS ANALYST AT GOOGLE NOW; IS THAT RIGHT?

09:45AM 19 PROSPECTIVE JUROR: YES.

09:45AM 20 MR. NELSON: AND I THINK WE WILL HEAR PRETTY QUICKLY
09:45AM 21 THAT ARISTA IS, OR EXCUSE ME, THE OTHER WAY AROUND, GOOGLE IS A
09:45AM 22 CUSTOMER OF ARISTA. SO HAVE YOU HAD ANY DEALINGS WITH EITHER
09:45AM 23 CISCO OR ARISTA IN CONNECTION WITH YOUR WORK AT GOOGLE?

09:45AM 24 PROSPECTIVE JUROR: NO.

09:45AM 25 THE COURT: NOW, YOU PREVIOUSLY, I THINK, WORKED AT A

09:45AM 1 LITIGATION CONSULTING FIRM; IS THAT RIGHT?

09:45AM 2 PROSPECTIVE JUROR: YES.

09:45AM 3 MR. NELSON: WHAT KIND OF THINGS DID YOU DO THERE?

09:45AM 4 PROSPECTIVE JUROR: SO SPECIFICALLY I DID ECONOMIC
09:45AM 5 ANALYSIS, LOOKING AT THE DAMAGES THAT MIGHT BE -- MIGHT NEED TO
09:45AM 6 BE PAID IN SECURITIES CLASS ACTIONS.

09:45AM 7 MR. NELSON: OKAY.

09:45AM 8 DID -- DO YOU KNOW WHETHER YOU HAD ANY DEALINGS WITH EITHER
09:45AM 9 OF THE PARTIES IN CONNECTION WITH THAT LITIGATION CONSULTING
09:45AM 10 WORK?

09:45AM 11 PROSPECTIVE JUROR: NEITHER OF THESE TWO PARTIES, NO.

09:46AM 12 MR. NELSON: HOW ABOUT ANY OF THE LAW FIRMS THAT ARE
09:46AM 13 INVOLVED HERE?

09:46AM 14 PROSPECTIVE JUROR: I DIDN'T RECOGNIZE THEM, BUT WE
09:46AM 15 WEREN'T AS CONNECTED TO THE LAW FIRMS.

09:46AM 16 MR. NELSON: OKAY. THAT WASN'T --

09:46AM 17 PROSPECTIVE JUROR: WE SUPPORTED THE EXPERTS, EXPERT
09:46AM 18 TESTIMONY IN CASES. SO WE WORKED THROUGH THE EXPERTS.

09:46AM 19 MR. NELSON: AND YOU DID NOT RECOGNIZE ANY EXPERTS IN
09:46AM 20 THIS CASE?

09:46AM 21 PROSPECTIVE JUROR: NO, NONE OF THE NAMES.

09:46AM 22 MR. NELSON: WHEN YOU SAY YOU SUPPORTED THE EXPERTS,
09:46AM 23 YOU SUPPORTED DAMAGES EXPERT TESTIMONY?

09:46AM 24 PROSPECTIVE JUROR: MOSTLY, YEAH.

09:46AM 25 MR. NELSON: SO DO YOU HAVE KIND OF A VIEW ON HOW

09:46AM 1 DAMAGES EXPERT TESTIMONY SHOULD BE?

09:46AM 2 PROSPECTIVE JUROR: HOW IT SHOULD BE DONE? OR --

09:46AM 3 MR. NELSON: YEAH, EXACTLY.

09:46AM 4 PROSPECTIVE JUROR: YEAH, I MEAN, IN THAT PARTICULAR
09:46AM 5 CASE LIKE THERE WERE -- IN THAT PARTICULAR AREA I'M PRETTY
09:46AM 6 FAMILIAR WITH HOW THOSE CALCULATIONS WERE DONE. IF THEY WERE
09:46AM 7 DONE IN A WAY THAT DIDN'T MATCH HOW OUR EXPERTS INSTRUCTED US,
09:46AM 8 I WOULD RECOGNIZE THAT.

09:46AM 9 MR. NELSON: DID -- SO HOW LONG WERE YOU AT THE
09:46AM 10 LITIGATION CONSULTING --

09:47AM 11 PROSPECTIVE JUROR: FOUR OR FIVE YEARS.

09:47AM 12 MR. NELSON: DO YOU KNOW HOW MANY CASES YOU WORKED
09:47AM 13 ON?

09:47AM 14 PROSPECTIVE JUROR: A GOOD NUMBER. 30, 40, 50.

09:47AM 15 MR. NELSON: BUT YOU DON'T RECALL ANY PATENT CASES?

09:47AM 16 PROSPECTIVE JUROR: I WORKED ON A COUPLE OF PATENT
09:47AM 17 CASES EARLY ON, BUT IT WAS -- I HADN'T -- THIS WAS WHEN I WAS A
09:47AM 18 FIRST-YEAR ANALYST, I WAS BASICALLY JUST LOOKING THROUGH
09:47AM 19 E-MAILS.

09:47AM 20 MR. NELSON: DO YOU RECALL WHAT THE TECHNOLOGY WAS IN
09:47AM 21 THOSE CASES?

09:47AM 22 PROSPECTIVE JUROR: ONE OF THEM HAD TO DO WITH CELL
09:47AM 23 PHONES AND THE OTHER ONES, NO.

09:47AM 24 MR. NELSON: DO YOU RECALL WHICH IT WAS, WORKING ON
09:47AM 25 BEHALF OF THE PLAINTIFF OR THE OTHER WAY AROUND?

09:47AM 1 PROSPECTIVE JUROR: MOSTLY THE PLAINTIFF, BUT IT WAS
09:47AM 2 MIXED.

09:47AM 3 MR. NELSON: I WAS TALKING SPECIFICALLY ABOUT THE
09:47AM 4 PATENT CASES.

09:47AM 5 PROSPECTIVE JUROR: OH, I THINK IT WAS A MIX. SO THE
09:47AM 6 ONE THAT I WORKED ON, AGAIN, THIS WAS A COUPLE OF THEM I WORKED
09:47AM 7 ON FOR A COUPLE OF DAYS OR A WEEK. I WORKED ON ONE FOR A MONTH
09:47AM 8 OR TWO AND THAT WAS FOR THE PLAINTIFF. THE OTHER ONES WERE A
09:47AM 9 MIX.

09:47AM 10 MR. NELSON: HOW ABOUT COPYRIGHT CASES?

09:47AM 11 PROSPECTIVE JUROR: I DON'T RECALL. SOME OF THE
09:47AM 12 PATENTS MIGHT HAVE HAD COPYRIGHT AS WELL, BUT I DON'T RECALL
09:48AM 13 SPECIFICALLY.

09:48AM 14 MR. NELSON: DO YOU HAVE ANY PATENTS OR COPYRIGHTS
09:48AM 15 YOURSELF?

09:48AM 16 PROSPECTIVE JUROR: NO.

09:48AM 17 MR. NELSON: I ALSO -- YOUR PARENTS OWNED A BOOK
09:48AM 18 STORE; IS THAT RIGHT?

09:48AM 19 PROSPECTIVE JUROR: YEAH, YEAH.

09:48AM 20 MR. NELSON: WAS THERE EVER ANY DISCUSSION OF MAYBE
09:48AM 21 INTELLECTUAL PROPERTY ISSUES WITH RESPECT TO THAT, COPYRIGHT
09:48AM 22 ISSUES.

09:48AM 23 PROSPECTIVE JUROR: NOT THAT I KNOW. THIS WAS WHEN I
09:48AM 24 WAS IN HIGH SCHOOL SO I WASN'T REALLY INVOLVED AT ALL.

09:48AM 25 MR. NELSON: OKAY. THANK YOU.

09:48AM 1 I THINK YOU CAN PASS THE MIC NOW TO MR. BHAKTA.

09:48AM 2 DID I GET THE NAME RIGHT?

09:48AM 3 PROSPECTIVE JUROR: YEAH.

09:48AM 4 MR. NELSON: OH. THANK YOU. SO, MR. BHAKTA, FROM
09:48AM 5 YOUR QUESTIONNAIRE IT LOOKED LIKE YOU HAD SOME EXPERIENCE WITH
09:48AM 6 PATENTS AND COPYRIGHTS; IS THAT RIGHT?

09:48AM 7 PROSPECTIVE JUROR: LIKE, I DON'T HAVE EXPERIENCE
09:49AM 8 DIRECTLY WORKING. I GUESS, HAVING MY OWN OR ANYTHING LIKE
09:49AM 9 THAT.

09:49AM 10 MR. NELSON: PERHAPS SOME VIEWS ON PATENTS AND
09:49AM 11 COPYRIGHTS?

09:49AM 12 PROSPECTIVE JUROR: I THINK LIKE COPYRIGHTS ARE GOOD,
09:49AM 13 IT'S JUST SOME OF THE, LIKE, TIME LIMITS ON THEM I THINK ARE A
09:49AM 14 BIT TOO LONG. BUT PATENTS, LIKE, I DON'T HAVE, LIKE, A VERY
09:49AM 15 STRONG VIEW, BUT I DO THINK THAT MAYBE SOME OF THE PATENTS
09:49AM 16 MIGHT BE OVERREACHING ON WHAT THEY PROTECT.

09:49AM 17 MR. NELSON: NOW, I JUST WANT TO EXPLORE THAT A BIT.
09:49AM 18 SO WHEN YOU SAY, "OVERREACHING," WHAT DO YOU MEAN THERE?

09:49AM 19 PROSPECTIVE JUROR: LIKE IT SEEMS LIKE AT LEAST SOME
09:49AM 20 PATENTS ARE, I GUESS SOME -- SORRY.

09:50AM 21 MR. NELSON: NO, THAT'S OKAY.

09:50AM 22 PROSPECTIVE JUROR: SO I GUESS SOME PATENTS, I THINK
09:50AM 23 SOME PATENTS ARE EITHER MAYBE LIKE MORE ON THE OBVIOUS SIDE OR
09:50AM 24 THEY MIGHT BE SOMETHING THAT I JUST FEEL LIKE THEY MIGHT NOT BE
09:50AM 25 SOMETHING THAT SHOULD BE PATENTED.

09:50AM 1 MR. NELSON: SO BASED UPON THAT, I MEAN, IS THAT LIKE
09:50AM 2 A GENERAL IDEA YOU HAVE REGARDING PATENTS?

09:50AM 3 PROSPECTIVE JUROR: YES. YEAH. LIKE, I DON'T
09:50AM 4 DISAGREE WITH LIKE, PATENTS IN GENERAL, BUT I DO THINK
09:50AM 5 SOMETIMES THEY DO.

09:50AM 6 MR. NELSON: SO GIVEN THAT THERE'S PATENTS INVOLVED
09:50AM 7 IN THIS CASE, DO YOU THINK THAT THIS IS MAY BE THE BEST CASE OR
09:50AM 8 THERE MIGHT BE A CASE WHERE THERE'S DIFFERENT SUBJECT MATTER
09:50AM 9 THAT MIGHT BE BETTER FOR YOU?

09:50AM 10 PROSPECTIVE JUROR: SO I MEAN, I THINK, LIKE, I CAN,
09:51AM 11 WHATEVER I THINK ABOUT IT, AND FOLLOW LIKE WHAT THE ACTUAL LAW
09:51AM 12 IS.

09:51AM 13 MR. NELSON: MEANING SET THOSE THINGS ASIDE?

09:51AM 14 PROSPECTIVE JUROR: YEAH.

09:51AM 15 MR. NELSON: NOW, I ALSO SAW THAT YOU, I MEAN, YOU
09:51AM 16 HAD MENTIONED THAT YOU HAVE A BUNCH OF SONGS AND SOFTWARE OF
09:51AM 17 YOUR OWN. RIGHT?

09:51AM 18 PROSPECTIVE JUROR: YEAH. THEY ARE NOT PUBLICLY
09:51AM 19 RELEASED. NOTHING THAT'S LIKE PUBLIC. I DON'T HAVE, LIKE,
09:51AM 20 ACTUAL, LIKE, REGISTERED.

09:51AM 21 MR. NELSON: YEAH, THAT'S WHAT I WAS SAYING, BECAUSE
09:51AM 22 YOU HAD SAID SPECIFICALLY THAT YOU DIDN'T HAVE ANY PROTECTION
09:51AM 23 OR REGISTRATION FOR THOSE, RIGHT?

09:51AM 24 PROSPECTIVE JUROR: YEAH.

09:51AM 25 MR. NELSON: IS THERE SOME REASON FOR THAT?

09:51AM 1 PROSPECTIVE JUROR: JUST BECAUSE I NEVER DID ANYTHING
09:51AM 2 PUBLICLY.

09:51AM 3 MR. NELSON: BUT ARE YOU -- YOU ARE NOT OPPOSED TO
09:51AM 4 THAT IDEA, RIGHT? REGISTERING COPYRIGHTS OR --

09:51AM 5 PROSPECTIVE JUROR: NO. I THINK COPYRIGHT IS GOOD,
09:51AM 6 BUT SOME OF THE TIME LIMITS ARE A LITTLE LONG.

09:51AM 7 MR. NELSON: YEAH. WELL, WHEN YOU SAY SOME OF THE
09:52AM 8 TIME LIMITS ARE LONG --

09:52AM 9 PROSPECTIVE JUROR: LIKE A COPYRIGHT CAN LAST
09:52AM 10 70 YEARS. I THINK THAT'S TOO LONG FOR THAT.

09:52AM 11 MR. NELSON: LESS TIME IS OKAY?

09:52AM 12 PROSPECTIVE JUROR: YEAH.

09:52AM 13 MR. NELSON: OKAY.

09:52AM 14 YOU ALSO HAD MENTIONED THAT YOU KNOW A NUMBER OF PEOPLE WHO
09:52AM 15 WORK FOR CISCO OR ARISTA; IS THAT RIGHT?

09:52AM 16 PROSPECTIVE JUROR: YEAH. NOT CURRENTLY, BUT MORE OF
09:52AM 17 A FORMER WORKER.

09:52AM 18 MR. NELSON: FORMER. DO YOU KNOW HOW CLOSE YOU WERE
09:52AM 19 TO THOSE FOLKS?

09:52AM 20 PROSPECTIVE JUROR: ONE OF THEM WAS A MANAGER FOR
09:52AM 21 QUITE A FEW YEARS.

09:52AM 22 MR. NELSON: DO YOU HAVE ANY OPINIONS OF EITHER OF
09:52AM 23 THE COMPANIES BASED UPON YOUR INTERACTION WITH THESE FOLKS?

09:52AM 24 PROSPECTIVE JUROR: NO.

09:52AM 25 MR. NELSON: HAVE YOU HAD ANY EXPERIENCE WITH EITHER

09:52AM 1 OF THE COMPANIES IN TERMS OF THEIR PRODUCTS OR KNOW ANYTHING
09:52AM 2 ABOUT THEM?

09:52AM 3 PROSPECTIVE JUROR: SO I'VE OWNED CISCO PRODUCTS, AND
09:52AM 4 I'VE, IN MY WORK I'VE WORKED ON ISSUES THAT DEALT WITH CISCO
09:53AM 5 PRODUCTS.

09:53AM 6 MR. NELSON: SO DO YOU HAVE, LIKE, AN OPINION OF
09:53AM 7 CISCO COMING IN AS A COMPANY?

09:53AM 8 PROSPECTIVE JUROR: SO LIKE, PERSONALLY LIKE, LIKE
09:53AM 9 THE CISCO PRODUCTS, I WAS HAPPY WITH THEM. AT WORK, I DON'T
09:53AM 10 RECALL SPECIFICS, SO I DON'T HAVE AN OPINION OF THAT.

09:53AM 11 MR. NELSON: OKAY. NO, YOU DON'T HAVE TO, THAT'S
09:53AM 12 WHAT I'M ASKING IS IF THERE'S SOMETHING COMING IN. OKAY. I
09:53AM 13 APPRECIATE THAT.

09:53AM 14 NOW, MR. GORDON. GOOD MORNING, SIR.

09:53AM 15 PROSPECTIVE JUROR: GOOD MORNING.

09:53AM 16 MR. NELSON: SO ON YOUR QUESTIONNAIRE YOU HAD
09:53AM 17 INDICATED THAT YOU HAD A ROOMMATE THAT WORKED AT CISCO.

09:53AM 18 PROSPECTIVE JUROR: YEAH, HE WORKS IN FINANCE.

09:53AM 19 MR. NELSON: FINANCE. NOT AN ENGINEER OR THAT TYPE
09:53AM 20 POSITION.

09:53AM 21 PROSPECTIVE JUROR: NO, NOT ANYTHING TO DO WITH
09:54AM 22 ENGINEERING. HE DOES SOME, LIKE, FINANCIAL CALCULATIONS IN
09:54AM 23 EXCEL, I WOULD ASSUME, BUT I DON'T THINK HE DOES ANYTHING
09:54AM 24 INTERACTING WITH ENGINEERS.

09:54AM 25 MR. NELSON: OKAY.

09:54AM 1 AND THE ROOMMATE, I MEAN, DOES HE TALK A LOT ABOUT HIS JOB?

09:54AM 2 PROSPECTIVE JUROR: I WOULDN'T SAY A LOT. WE TALK
09:54AM 3 ABOUT OUR JOBS SOMETIMES, BUT NOT IN GREAT DETAIL.

09:54AM 4 MR. NELSON: SO DO YOU THINK THE FACT THAT YOUR
09:54AM 5 ROOMMATE WORKS FOR FINANCE IN CISCO WOULD AFFECT YOUR ABILITY
09:54AM 6 IN THIS CASE.

09:54AM 7 PROSPECTIVE JUROR: NO, I DON'T THINK IT WOULD BIAS
09:54AM 8 ME ONE WAY OR THE OTHER.

09:54AM 9 MR. NELSON: DO YOU THINK -- YOU WILL HAVE YOUR HONOR
09:54AM 10 TELLING YOU NOT TO DISCUSS THE CASE WITH ANYBODY. WOULD THAT
09:54AM 11 BE AN ISSUE?

09:54AM 12 PROSPECTIVE JUROR: YEAH. NO, I WOULDN'T TALK ABOUT
09:54AM 13 THAT WITH HIM.

09:54AM 14 MR. NELSON: ALL I TOLD HIM IS I'M A POTENTIAL JUROR,
09:54AM 15 AND I WILL BE RELEASED ON DECEMBER 19TH.

09:54AM 16 (LAUGHTER.)

09:54AM 17 THE COURT: THAT'S RIGHT.

09:54AM 18 MR. NELSON: THAT'S GREAT. YOU WERE LISTENING.
09:55AM 19 NO, SO THAT'S -- THAT'S PERFECT. I APPRECIATE THAT.
09:55AM 20 SO THEN MR. FRY?

09:55AM 21 PROSPECTIVE JUROR: YES.

09:55AM 22 MR. NELSON: OKAY. THANK YOU, SIR.

09:55AM 23 SO IT LOOKS LIKE YOU'VE SPENT A LOT OF TIME IN A COURTROOM;
09:55AM 24 IS THAT RIGHT?

09:55AM 25 PROSPECTIVE JUROR: YES.

09:55AM 1 MR. NELSON: AND I APPRECIATE THAT.

09:55AM 2 SO BASED UPON THAT, YOUR TIME IN A COURTROOM, DO YOU THINK
09:55AM 3 THAT THERE WOULD BE SOME ISSUE THAT YOU WOULD HAVE ANY ISSUES
09:55AM 4 WITH HOW THE CASE IS PRESENTED OR FAVOR ONE SIDE OR THE OTHER?

09:55AM 5 PROSPECTIVE JUROR: NO. I WOULD LOOK AT THE MERITS.

09:55AM 6 MR. NELSON: OKAY. SO IT DOESN'T -- YOU DON'T THINK
09:55AM 7 THAT -- YOU WERE ON THE -- YOU WERE MAINLY ON THE PROSECUTION
09:55AM 8 AS A PROSECUTOR?

09:55AM 9 PROSPECTIVE JUROR: CRIMINAL PROSECUTION, YES.

09:55AM 10 MR. NELSON: HAVE YOU HAD ANY EXPERIENCE WITH CIVIL
09:55AM 11 CASES IN TERMS OF TRIAL WORK?

09:55AM 12 PROSPECTIVE JUROR: OVER 30 YEARS AGO I BRIEFLY
09:56AM 13 HANDLED WHAT ARE CALLED DEPENDENCY CASES IN STATE COURT.

09:56AM 14 MR. NELSON: NEVER ANY PATENTS OR COPYRIGHT CASES?

09:56AM 15 PROSPECTIVE JUROR: NO, NO.

09:56AM 16 MR. NELSON: HAVE YOU -- DO YOU HAVE ANY PERSONAL
09:56AM 17 FAMILIARITY WITH LAW IN PATENTS OR COPYRIGHT CASES?

09:56AM 18 PROSPECTIVE JUROR: ONLY FROM LAW SCHOOL, SIR, AND
09:56AM 19 THAT WAS A LONG TIME AGO.

09:56AM 20 MR. NELSON: YEAH.

09:56AM 21 PROSPECTIVE JUROR: I DID TAKE PATENT LAW, WHICH WAS
09:56AM 22 AN ELECTIVE. I DIDN'T HAVE TO.

09:56AM 23 MR. NELSON: RIGHT. OKAY.

09:56AM 24 BUT DO YOU THINK YOU WOULD HAVE ANY TROUBLE WITH FOLLOWING
09:56AM 25 HER HONOR'S INSTRUCTION ON WHAT THE LAW IS?

09:56AM 1 PROSPECTIVE JUROR: ABSOLUTELY NOT.

09:56AM 2 MR. NELSON: OKAY. ALL RIGHT. I THINK -- I DON'T
09:56AM 3 HAVE ANY FURTHER QUESTIONS OF YOU. I APPRECIATE IT.

09:56AM 4 PROSPECTIVE JUROR: THERE IS SOMETHING I NEED TO MAKE
09:56AM 5 THE COURT AWARE OF. SINCE THE LAST TIME WE WERE ALL IN COURT
09:56AM 6 AND I FILLED OUT THE QUESTIONNAIRE, A SCHEDULING ISSUE HAS
09:56AM 7 ARISEN.

09:56AM 8 I'VE BEEN SUBPOENAED AS A WITNESS IN A STATE TRIAL. IT WAS
09:57AM 9 SCHEDULED FOR JANUARY 4TH, THOUGH IT WAS NOT A PROBLEM. SINCE
09:57AM 10 THE LAST TIME WE WERE ALL IN COURT, I'VE LEARNED THAT THERE'S A
09:57AM 11 MOTION TO ADVANCE THE TRIAL. THE MOTION WILL BE HEARD THIS
09:57AM 12 WEDNESDAY. IT IS PROBABLY GOING TO BE GRANTED.

09:57AM 13 IF THE MOTION IS ADVANCED, I MEAN, IF THE TRIAL IS
09:57AM 14 ADVANCED, THEN THE TRIAL COULD CONFLICT WITH THIS ONE. AND, OF
09:57AM 15 COURSE, THERE IS A POSSIBILITY THAT THE CASE WILL SETTLE.
09:57AM 16 THERE'S A PROBABILITY THAT THE CASE WILL SETTLE. BUT THERE IS
09:57AM 17 THE POSSIBILITY THAT I WOULD BE UNAVAILABLE TO SIT ON THIS JURY
09:57AM 18 TRIAL. I'M CERTAINLY WILLING TO SERVE, BUT I WANTED TO MAKE
09:57AM 19 THE COURT AWARE OF THE POSSIBILITY THAT I WILL NOT BE
09:57AM 20 AVAILABLE.

09:57AM 21 THE COURT: THANK YOU. WHERE IS THE COURT?

09:58AM 22 PROSPECTIVE JUROR: SANTA CRUZ COUNTY, YOUR HONOR.

09:58AM 23 THE COURT: SANTA CRUZ. THANK YOU.

09:58AM 24 MR. NELSON: THANK YOU, YOUR HONOR.

09:58AM 25 I APPRECIATE THAT. THANK YOU FOR TELLING US.

09:58AM 1 SO MS. BROWN. I WILL GET THE MICROPHONE. THANK YOU, SIR.

09:58AM 2 SO I SAW FROM YOUR QUESTIONNAIRE THAT YOU WORKED AT

09:58AM 3 STANFORD A NUMBER OF YEARS AGO; IS THAT RIGHT?

09:58AM 4 PROSPECTIVE JUROR: YES, ABOUT 14 YEARS AGO.

09:58AM 5 MR. NELSON: EXCUSE ME?

09:58AM 6 PROSPECTIVE JUROR: ABOUT 14 YEARS AGO.

09:58AM 7 MR. NELSON: OKAY. AND THAT'S WHEN YOU LEFT,
09:58AM 8 14 YEARS AGO?

09:58AM 9 PROSPECTIVE JUROR: YES.

09:58AM 10 MR. NELSON: WHAT PERIOD OF TIME WERE YOU THERE?

09:58AM 11 PROSPECTIVE JUROR: I LEFT IN 2002 AND THEN FIVE
09:58AM 12 YEARS PRIOR TO THAT, SO 1997, I GUESS, BETWEEN THAT. 1997 TO
09:58AM 13 2002, ROUGHLY.

09:58AM 14 MR. NELSON: OKAY. AND WHAT KIND OF -- IT LOOKS LIKE
09:58AM 15 YOU WERE IN THE ENGINEER RESEARCH ADMINISTRATION; IS THAT
09:59AM 16 RIGHT?

09:59AM 17 PROSPECTIVE JUROR: YEAH. I STARTED OFF AT
09:59AM 18 ELECTRONIC ENGINEER AND THEN FOR TEMPORARY WENT TO COMPUTER
09:59AM 19 SCIENCES, AND I WORKED THERE FOR ABOUT THREE YEARS IN TWO
09:59AM 20 DIFFERENT PLACES, OR FOR TWO DIFFERENT PROFESSORS.

09:59AM 21 THEN I MOVED TO ENGINEERING. AND THAT WAS MECHANICAL
09:59AM 22 ENGINEERING.

09:59AM 23 MR. NELSON: OKAY. DO YOU RECALL WHICH PROFESSOR IN
09:59AM 24 THE COMPUTER SCIENCE?

09:59AM 25 PROSPECTIVE JUROR: OH, COMPUTER SCIENCE, YES, MONICA

09:59AM 1 LAM. I CAN'T THINK OF THE OTHER GUY'S NAME FOR SOME REASON
09:59AM 2 RIGHT NOW. BUT I DIDN'T DO AS MUCH FOR HIM. IT WAS MOSTLY
09:59AM 3 MONICA LAM. AND EE WAS TERESA MING. AND KSL WAS RICHARD FICE.
09:59AM 4 AND I CANNOT THINK OF THE OTHER -- I ALSO DID, JUST AGAIN,
09:59AM 5 A SMALL AMOUNT FOR ANOTHER PROFESSORS BUT I CAN'T THINK OF HIM
09:59AM 6 NOW.

09:59AM 7 MR. NELSON: NOW, IN YOUR TIME THERE, DID YOU HAVE --
09:59AM 8 I MEAN, STANFORD OBVIOUSLY SPENDS A LOT ON STARTUP. DO YOU
10:00AM 9 HAVE OCCASION TO DO ANY WORK IN CONNECTION WITH ANY OF THOSE
10:00AM 10 SPINOUTS, MEANING, YOU KNOW, PROFESSORS LEAVING OR GRAD
10:00AM 11 STUDENTS OR SOMETHING TO GO WORK FOR STARTUPS?

10:00AM 12 PROSPECTIVE JUROR: YEAH, THE GUYS ON OUR LEVEL WAS
10:00AM 13 YAHOO AND GOOGLE. WE KNEW GOOGLE QUITE A BIT DID SOME WORK
10:00AM 14 BACK AND FORTH, BUT AS AN ADMINISTRATOR, I MOSTLY HANDLED
10:00AM 15 PAPERWORK. I DO NOT KNOW THAT I WOULD REMEMBER NAMES. I'VE
10:00AM 16 CERTAINLY HEARD OF BOTH OF THESE COMPANIES. I KNOW PEOPLE THAT
10:00AM 17 WORK WITH, AT LEAST, THAT ONE. AND -- CISCO. THANK YOU. I
10:00AM 18 DRAW BLANKS SOMETIMES WHEN I'M NERVOUS. YEAH. AND NEITHER PRO
10:00AM 19 NOR CON. I'VE HEARD THE NAMES AND PEOPLE TALKING, PROBABLY
10:00AM 20 SOME PRO AND CON. IT JUST NEVER RESONATED WITH ME, THOUGH,
10:00AM 21 BECAUSE I'M THERE TO DO THE PAPERWORK.

10:00AM 22 MR. NELSON: THANK YOU. AND DID YOU HAVE ANY
10:00AM 23 EXPERIENCE WITH, LIKE, ANY LICENSING WORK, SAY THAT THERE MIGHT
10:01AM 24 HAVE BEEN SOME TECHNOLOGY DEVELOPED AT STANFORD AND THEN, YOU
10:01AM 25 KNOW, THAT WAS OBVIOUSLY PERHAPS BE INVOLVED WITH THE STARTUP.

10:01AM 1 PROSPECTIVE JUROR: YEAH, I DID BUDGETS AND THINGS
10:01AM 2 LIKE THAT AND PROPOSALS. SO THERE MAY BE A PATENT. WE MAY
10:01AM 3 HAVE TO HAVE SOME PAPERWORK TO SHOW THAT THIS DID THAT OR
10:01AM 4 WHATEVER TO PUT A PACKAGE TOGETHER.

10:01AM 5 BUT I WOULD NOT HAVE DONE THE PATENT WORK. I WOULD NOT
10:01AM 6 HAVE DONE THE PAPERWORK TO GET A PATENT. IT WOULD BE MORE LIKE
10:01AM 7 I NEED TO GO FIND THIS INFORMATION, I NEED TO CONTACT THAT
10:01AM 8 PERSON.

10:01AM 9 AND SINCE I DID A LOT OF THOSE, THAT COULD BE -- IT'S THE
10:01AM 10 SAME THING AS, THERE'S JUST THINGS YOU HAVE TO GO DOWN TO MAKE
10:01AM 11 SURE THIS IS A PROPOSAL TO GO FORTH.

10:01AM 12 THEN ONCE THE BUDGET IS BACK AND YOU'VE GOT ANYTHING, WHEN
10:01AM 13 ANYTHING IS CHARGED TO SOMETHING, YOU HAVE TO GO AGAIN AND YOU
10:01AM 14 HAVE TO MAKE SURE THIS IS PART OF A CONTRACT AND ESPECIALLY IN
10:01AM 15 CONTRACTS AND GRANTS. BUT IT WOULD BE MORE LIKE THAT, JUST TO
10:01AM 16 SEE THAT THIS IS IN PLAY AND THAT WE DO HAVE THE PROPER
10:01AM 17 PAPERWORK.

10:02AM 18 MR. NELSON: DID YOU DO ANY OF THAT KIND OF WORK THAT
10:02AM 19 YOU JUST DESCRIBED WITH RESPECT TO CISCO?

10:02AM 20 PROSPECTIVE JUROR: I DON'T KNOW FOR SURE. I THINK
10:02AM 21 SO. I THINK ONE OF MY PROFESSORS, THE ONE I CAN'T REMEMBER AT
10:02AM 22 KSL, HAD SOMETHING TO DO WITH CISCO BEFORE I ACTUALLY KIND OF
10:02AM 23 STARTED WORKING WITH HIM. SO THERE'S A FINE LINE IN THERE.
10:02AM 24 BUT I DON'T ACTUALLY REMEMBER, AND I DON'T HAVE ANY PROBLEM
10:02AM 25 OF -- OR REMEMBER ANYTHING HE HAD A PROBLEM WITH OR ANYTHING.

10:02AM 1 MR. NELSON: SO BASED UPON THAT WORK, DO YOU HAVE ANY
10:02AM 2 OPINIONS ABOUT STARTUPS COMING OUT OF STANFORD OR ANYTHING LIKE
10:02AM 3 THAT?

10:02AM 4 PROSPECTIVE JUROR: NO.

10:02AM 5 MR. NELSON: OKAY. I THINK THAT'S ALL FOR YOU THAT I
10:02AM 6 HAVE. SO I APPRECIATE YOUR TIME. THANK YOU.

10:02AM 7 AND NOW MR. CHOU. MAYBE I'M SAYING IT WRONG. CHOU. OH,
10:03AM 8 OKAY. SORRY.

10:03AM 9 HOW IS IT PRONOUNCED?

10:03AM 10 PROSPECTIVE JUROR: CHOU OR CHOW IS OKAY.

10:03AM 11 MR. NELSON: HOW SHOULD I --

10:03AM 12 PROSPECTIVE JUROR: MY FIRST NAME IS ALEX.

10:03AM 13 MR. NELSON: OKAY. SO I SHOULD USE THAT?

10:03AM 14 PROSPECTIVE JUROR: YEAH.

10:03AM 15 MR. NELSON: OKAY. MR. ALEX. YOU MENTIONED IN YOUR
10:03AM 16 QUESTIONNAIRE THAT YOU HAVE FRIENDS AT CISCO; IS THAT RIGHT?

10:03AM 17 PROSPECTIVE JUROR: YEAH, USED TO BE. I'M NOT SURE
10:03AM 18 IF THEY ARE STILL AT CISCO OR NOT.

10:03AM 19 MR. NELSON: DO YOU KNOW WHAT POSITIONS THEY HAD IN
10:03AM 20 CISCO?

10:03AM 21 PROSPECTIVE JUROR: SOME OF THEM ARE THE DIRECTOR OR
10:03AM 22 SOME OF THEM WERE ENGINEERS.

10:03AM 23 MR. NELSON: DO YOU KNOW WHAT KIND OF WORK THEY DID?

10:03AM 24 PROSPECTIVE JUROR: I THINK THEY ARE DOING
10:03AM 25 TELECONFERENCING. RIGHT NOW THAT BRANCH MAY BE CLOSED ALREADY.

10:03AM 1 MR. NELSON: AND DO YOU STILL HAVE CLOSE CONTACT WITH
10:03AM 2 ANY OF THESE PEOPLE?

10:03AM 3 PROSPECTIVE JUROR: NOT QUITE, YEAH.

10:04AM 4 MR. NELSON: NOW AND THEN. BUT YOU ARE NOT AWARE OF
10:04AM 5 WHETHER THEY STILL WORK AT CISCO?

10:04AM 6 PROSPECTIVE JUROR: NOT QUITE SURE, NO.

10:04AM 7 MR. NELSON: AND BASED UPON THAT, DO YOU KNOW, I
10:04AM 8 MEAN, DO YOU HAVE -- THINK IT WOULD BE AN ISSUE WITH RESPECT TO
10:04AM 9 BEING IMPARTIAL OR THIS CASE BECAUSE CISCO IS INVOLVED?

10:04AM 10 PROSPECTIVE JUROR: MAYBE NOT.

10:04AM 11 MR. NELSON: OKAY. YOU SAY MAYBE NOT. IS THAT --
10:04AM 12 WHAT DO YOU MEAN THERE?

10:04AM 13 PROSPECTIVE JUROR: THE CASE IS INVOLVING A ROUTER,
10:04AM 14 AND I'M NOT QUITE FAMILIAR WITH THAT YET EVEN THOUGH I USE
10:04AM 15 THEM.

10:04AM 16 MR. NELSON: OH, OKAY. SO WHAT YOU MEAN IS YOU ARE
10:04AM 17 NOT FAMILIAR WITH THE TECHNOLOGY THEN?

10:04AM 18 PROSPECTIVE JUROR: A LITTLE BIT. NOT EXACTLY.

10:04AM 19 MR. NELSON: YEAH. BUT YOU WOULD BE OKAY --

10:04AM 20 PROSPECTIVE JUROR: I SHOULD BE OKAY, YEAH.

10:04AM 21 MR. NELSON: IN OTHER WORDS, BASED UPON WHAT EVIDENCE
10:04AM 22 WE GIVE YOU CONCERNING THE TECHNOLOGY.

10:04AM 23 PROSPECTIVE JUROR: YES.

10:04AM 24 MR. NELSON: AND DECIDING THE CASE BASED ON THAT?

10:05AM 25 PROSPECTIVE JUROR: YES.

10:05AM 1 MR. NELSON: OKAY.

10:05AM 2 SO YOU WORKED IN THE TECH INDUSTRY FOR A NUMBER OF YEARS;
10:05AM 3 IS THAT RIGHT?

10:05AM 4 PROSPECTIVE JUROR: YEAH, MAYBE 20 YEARS.

10:05AM 5 MR. NELSON: TWENTY YEARS. DO YOU HAVE ANY
10:05AM 6 PATENTS -- OR OPINIONS ON PATENTS BASED UPON THAT?

10:05AM 7 PROSPECTIVE JUROR: NO.

10:05AM 8 MR. NELSON: HOW ABOUT COPYRIGHT?

10:05AM 9 PROSPECTIVE JUROR: NO. MOST TIMES I'M DOING THE
10:05AM 10 FLOOR DESIGN. I'M NOT IN THE RESEARCH. SO I'M NOT WRITING
10:05AM 11 PATENTS.

10:05AM 12 MR. NELSON: OKAY. SO YOU ARE DOING THE ACTUAL
10:05AM 13 APPLICATION OF THE TECHNOLOGY TO THE PRODUCTS.

10:05AM 14 PROSPECTIVE JUROR: YEAH. I'M DOING PRODUCT DESIGN.

10:05AM 15 MR. NELSON: OKAY. THANK YOU, SIR. I APPRECIATE
10:05AM 16 THAT.

10:05AM 17 NOW NEXT I WOULD LIKE TO TALK TO MS. GREENSTEIN.

10:05AM 18 PROSPECTIVE JUROR: YES.

10:05AM 19 MR. NELSON: OKAY. THANK YOU.

10:05AM 20 SO I NOTICE FROM YOUR QUESTIONNAIRE THAT YOU HAVE AT LEAST
10:05AM 21 TWO CHILDREN THAT RUN STARTUPS; IS THAT RIGHT?

10:05AM 22 PROSPECTIVE JUROR: THREE, ACTUALLY.

10:05AM 23 MR. NELSON: THREE. OKAY. THREE.

10:06AM 24 AND WHAT KIND OF BUSINESS? ARE YOU AWARE OF?

10:06AM 25 PROSPECTIVE JUROR: THE FIRST ONE WAS IN THE GAME

10:06AM 1 INDUSTRY, BUT HE'S NOW IN A STARTUP DEVELOPING GIFS FOR THE
10:06AM 2 COMPUTER PROGRAMS ON THE SATELLITE CAMS, AND HE'S ALSO A PATENT
10:06AM 3 ATTORNEY.

10:06AM 4 MR. NELSON: REGISTERED PATENT ATTORNEY?

10:06AM 5 PROSPECTIVE JUROR: REGISTERED PATENT. HE LEFT THE
10:06AM 6 LAW TO GO TO A STARTUP, AND I DON'T THINK HE PAYS HIS DUES TO
10:06AM 7 THE BAR ASSOCIATION.

10:06AM 8 BUT, YEAH, HE'S A FULL ATTORNEY.

10:06AM 9 MR. NELSON: SO HE'S A RECOVERED LAWYER?

10:06AM 10 PROSPECTIVE JUROR: RECOVERED LAWYER, EXACTLY.

10:06AM 11 MR. NELSON: AND THEN YOU SAID YOU HAD TWO MORE
10:06AM 12 CHILDREN?

10:06AM 13 PROSPECTIVE JUROR: THE SECOND ONE IS ALSO AN
10:06AM 14 ATTORNEY. HE LEFT GOODWIN PROCTER TO GO TO THE LEARNING CLUB
10:06AM 15 WHICH WAS KIND OF A STARTUP AND WAS FOR THE IPO THERE. AND HE
10:06AM 16 JUST GOT BACK TO GOODWIN PROCTER TO BE AN ATTORNEY.

10:06AM 17 MR. NELSON: SO WHAT KIND OF LAW DOES HE PRACTICE?

10:07AM 18 PROSPECTIVE JUROR: WELL, HE'S ALSO AN ENGINEER SO
10:07AM 19 SOME PATENT. MOSTLY HE LOVES CORPORATE LAW. IPO, MERGERS,
10:07AM 20 ACQUISITIONS.

10:07AM 21 MR. NELSON: NOW, DO YOU RECALL WHEN YOUR CHILDREN
10:07AM 22 WERE WORKING AT THE STARTUPS WHETHER THEY WERE INVOLVED IN ANY
10:07AM 23 LEGAL DISPUTES?

10:07AM 24 PROSPECTIVE JUROR: NO, THEY WERE NOT INVOLVED.

10:07AM 25 MR. NELSON: SO NO PATENT --

10:07AM 1 PROSPECTIVE JUROR: NO DISPUTES THAT I KNOW OF.

10:07AM 2 MR. NELSON: I'M SORRY. I DIDN'T MEAN TO CUT YOU

10:07AM 3 OFF.

10:07AM 4 PROSPECTIVE JUROR: NONE THAT I KNOW OF.

10:07AM 5 MR. NELSON: OKAY. AND NO PATENTS OR COPYRIGHT

10:07AM 6 DISPUTE?

10:07AM 7 PROSPECTIVE JUROR: NO.

10:07AM 8 MR. NELSON: NOW, BASED UPON THE EXPERIENCE --

10:07AM 9 OBVIOUSLY YOU ARE CLOSE TO YOUR CHILDREN?

10:07AM 10 PROSPECTIVE JUROR: VERY.

10:07AM 11 MR. NELSON: DO YOU HAVE ANY OPINIONS COMING IN ABOUT

10:07AM 12 PATENTS AND COPYRIGHTS, THAT KIND OF THING?

10:07AM 13 PROSPECTIVE JUROR: NO. I WOULD LISTEN TO THE FACTS,

10:07AM 14 AND I KNOW WHAT A PATENT IS. I ATTENDED THE IEEE CONFERENCES

10:07AM 15 FOR 15 YEARS, AND I ENJOY THEM A LOT. AND COPYRIGHT IS A

10:08AM 16 LITTLE STRONGER FOR ME THAN PATENTS, BUT I WOULD LISTEN TO THE

10:08AM 17 FACTS, AND I THINK I WOULD HAVE AN INTELLIGENT OPINION.

10:08AM 18 MR. NELSON: OKAY. THANK YOU VERY MUCH. I

10:08AM 19 APPRECIATE THAT.

10:08AM 20 THE COURT: I THINK THAT IS TIME. THANK YOU.

10:08AM 21 MR. NELSON: THANK YOU, YOUR HONOR.

10:08AM 22 THE COURT: ALL RIGHT. MR. VAN NEST.

10:08AM 23 MR. VAN NEST: THANK YOU, YOUR HONOR. AND GOOD

10:08AM 24 MORNING AGAIN, EVERYBODY. I WANT TO THANK EVERYBODY FOR DOING

10:08AM 25 SUCH A GOOD JOB ON THE QUESTIONNAIRES. AS JUDGE FREEMAN SAID,

10:08AM 1 THEY WERE REALLY, REALLY HELPFUL.

10:08AM 2 AND COULD I PASS THE MIC TO MR. HWANG, JUROR NUMBER 2.

10:08AM 3 THANK YOU, TIFFANY.

10:08AM 4 GOOD MORNING, MR. HWANG. DO I HAVE THAT RIGHT?

10:08AM 5 PROSPECTIVE JUROR: THAT'S CORRECT.

10:08AM 6 MR. VAN NEST: OKAY. TERRIFIC.

10:08AM 7 YOU MENTIONED SOME CONTACTS THAT YOU'VE HAD IN THE PAST
10:08AM 8 WITH CISCO AND OBVIOUSLY I WANT TO EXPLORE THOSE A LITTLE BIT.
10:08AM 9 YOU MENTIONED HAVING BEEN RETAINED OR ASKED TO DO A KEYNOTE
10:09AM 10 SPEECH. HOW LONG AGO THAT WAS?

10:09AM 11 PROSPECTIVE JUROR: I BELIEVE THAT WAS PROBABLY 2010
10:09AM 12 OR SO.

10:09AM 13 MR. VAN NEST: OKAY. AND FOLLOWING THAT, DID YOU
10:09AM 14 DEVELOP SOME SORT OF BUSINESS RELATIONSHIP WITH CISCO?

10:09AM 15 PROSPECTIVE JUROR: I DID BUT REALLY ON A
10:09AM 16 PROFESSIONAL LEVEL. THERE WAS NEVER ANY CONTRACTED
10:09AM 17 RELATIONSHIP BEYOND THAT. I HAD DINNER WITH ONE OF THEIR
10:09AM 18 EXECUTIVES AT ONE POINT. A COUPLE OF E-MAILS, PHONE CALLS.

10:09AM 19 MR. VAN NEST: DO YOU KNOW WHO THAT WAS?

10:09AM 20 PROSPECTIVE JUROR: DR. DANNY SANS. HE WAS AN
10:09AM 21 EXECUTIVE VICE PRESIDENT CISCO.

10:09AM 22 MR. VAN NEST: WHAT DOES HE DO?

10:09AM 23 PROSPECTIVE JUROR: HE HEADED UP -- HE WAS ONE OF THE
10:09AM 24 GLOBAL LEADS FOR CISCO HEALTH CARE. I BELIEVE HIS AREA OF
10:09AM 25 EXPERTISE WAS AROUND PATIENT ENGAGEMENT. AND THEN I BELIEVE HE

10:09AM 1 LEFT THE COMPANY WHEN CISCO SHUT THAT PROGRAM I BELIEVE TWO
10:09AM 2 YEARS AGO.

10:09AM 3 MR. VAN NEST: OKAY. AND HOW ABOUT -- I KNOW YOU ARE
10:09AM 4 ON YOUR OWN, SELF EMPLOYED. ARE YOU STILL LOOKING TO DEVELOP A
10:10AM 5 RELATIONSHIP WITH CISCO IN THE FUTURE?

10:10AM 6 PROSPECTIVE JUROR: PROBABLY NOT.

10:10AM 7 MR. VAN NEST: AND HOW ABOUT OTHER FOLKS AT CISCO, DO
10:10AM 8 YOU HAVE ANY BUSINESS RELATIONSHIPS WITH ANYONE, WITH ANYONE
10:10AM 9 ELSE NOW?

10:10AM 10 PROSPECTIVE JUROR: NOT MYSELF.

10:10AM 11 MR. VAN NEST: BY NOT YOURSELF, YOU MEAN --

10:10AM 12 PROSPECTIVE JUROR: I HAVE RELATIVES LIKE MY BROTHER,
10:10AM 13 AS I MENTIONED. MY BROTHER'S WIFE DID WORK FOR CISCO FOR QUITE
10:10AM 14 A WHILE.

10:10AM 15 MR. VAN NEST: OKAY. WELL, LET'S TALK ABOUT HER A
10:10AM 16 LITTLE BIT. WHEN DID SHE LEAVE CISCO?

10:10AM 17 PROSPECTIVE JUROR: I BELIEVE ABOUT A YEAR AND A HALF
10:10AM 18 AGO.

10:10AM 19 MR. VAN NEST: AND HOW OFTEN DO YOU SEE HER?

10:10AM 20 PROSPECTIVE JUROR: AT LEAST ONCE A WEEK.

10:10AM 21 MR. VAN NEST: DO YOU TWO TALK ABOUT BUSINESS?

10:10AM 22 PROSPECTIVE JUROR: YEAH. BUT MAINLY REALLY JUST IN
10:10AM 23 HER ROLE AT WORK, NOT NECESSARILY ABOUT PRODUCTS OR ANYTHING
10:10AM 24 LIKE THAT.

10:10AM 25 MR. VAN NEST: RIGHT. HER ROLE MEANING WHAT SHE DOES

10:10AM 1 DAY TO DAY.

10:10AM 2 PROSPECTIVE JUROR: YEAH, YEAH. OR ISSUES AT WORK.

10:10AM 3 MR. VAN NEST: WHEN DID SHE LEAVE THE COMPANY?

10:10AM 4 PROSPECTIVE JUROR: A YEAR AND A HALF AGO.

10:10AM 5 MR. VAN NEST: AND WHAT DID SHE DO WHILE SHE WAS
10:10AM 6 THERE?

10:10AM 7 PROSPECTIVE JUROR: SHE DID PR FOR THE COMPANY AND
10:10AM 8 HELPED LAUNCH PRODUCTS.

10:11AM 9 MR. VAN NEST: WHILE SHE WAS WORKING DID THE TWO OF
10:11AM 10 YOU GET INTO DETAILS ABOUT WHAT PRODUCTS? WAS SHE WORKING
10:11AM 11 ROUTERS, SWITCHES?

10:11AM 12 PROSPECTIVE JUROR: NEVER IN GREAT DETAIL. NOTHING
10:11AM 13 THAT I RECALL. AGAIN, I SAID IT WAS MOSTLY ABOUT PERSONAL
10:11AM 14 CHALLENGES AT WORK AND NOT NECESSARILY ABOUT THE ACTUAL
10:11AM 15 PRODUCTS.

10:11AM 16 MR. VAN NEST: OKAY. SO WOULD EITHER YOUR PAST
10:11AM 17 ASSOCIATIONS WITH CISCO, MR. HWANG, OR YOUR RELATIONSHIP WITH
10:11AM 18 YOUR SISTER-IN-LAW, WOULD EITHER OF THOSE GIVE YOU PAUSE IN
10:11AM 19 TERMS OF BEING ABLE TO JUDGE THE EVIDENCE IMPARTIALLY IN THIS
10:11AM 20 CASE?

10:11AM 21 PROSPECTIVE JUROR: NO. I THINK I CAN STILL BE
10:11AM 22 OBJECTIVE.

10:11AM 23 MR. VAN NEST: WOULD YOU HAVE ANY DIFFICULTY
10:11AM 24 RENDERING A VERDICT AGAINST CISCO IF THAT'S WHAT THE EVIDENCE
10:11AM 25 REQUIRED IN YOUR EYES, IN LIGHT OF THE FACT THAT YOU GOT A

10:11AM 1 FAMILY MEMBER AND SOME RELATIONSHIP IN THE PAST WITH CISCO?

10:11AM 2 PROSPECTIVE JUROR: NO, IT WOULDN'T AFFECT MY
10:11AM 3 OPINION.

10:11AM 4 MR. VAN NEST: YOU THINK YOU COULD BE FAIR AND
10:11AM 5 IMPARTIAL?

10:11AM 6 PROSPECTIVE JUROR: I THINK SO.

10:11AM 7 MR. VAN NEST: DOES CISCO START OFF -- I'M GOING TO
10:12AM 8 ASK SOME QUESTIONS TO THE WHOLE GROUP, SO DON'T ANYBODY FALL
10:12AM 9 ASLEEP.

10:12AM 10 DOES CISCO START OFF A LITTLE BIT AHEAD IN THE GAME OVER
10:12AM 11 ARISTA THAT YOU DON'T HAVE ANY RELATIONSHIP WITH?

10:12AM 12 PROSPECTIVE JUROR: IN TERMS OF MY OPINION OF THEM,
10:12AM 13 YES, ONLY BECAUSE I'M NOT FAMILIAR WITH ARISTA BEYOND ITS NAME.
10:12AM 14 I AM VERY WELL FAMILIAR WITH CISCO BECAUSE OF FAMILY MEMBERS
10:12AM 15 WORKING FOR THEM, BECAUSE OF MY OWN RELATIONSHIP WITH THEM, THE
10:12AM 16 FACT THAT I HAVE CISCO SWAG IN MY CLOSET AND THE FACT THAT I
10:12AM 17 USE THEIR PRODUCTS IN MY HOME AND AT WORK.

10:12AM 18 BUT, AGAIN, I DON'T THINK IT WOULD AFFECT MY ABILITY TO
10:12AM 19 RENDER A FAIR AND OBJECTIVE VERDICT.

10:12AM 20 MR. VAN NEST: YOU COULD PUT THAT CISCO SWAG OUT OF
10:12AM 21 YOUR MIND IN EVALUATING OUR EVIDENCE?

10:12AM 22 PROSPECTIVE JUROR: AS LONG AS I'M NOT WEARING THE
10:12AM 23 SHIRT IN THE COURTROOM.

10:12AM 24 MR. VAN NEST: I WOULD APPRECIATE THAT.

10:12AM 25 PROSPECTIVE JUROR: I BELIEVE SO.

10:12AM 1 MR. VAN NEST: OKAY. THANK YOU, MR. HWANG.

10:12AM 2 COULD WE PASS DOWN THE MIC TO MR. GORDON, PLEASE, NUMBER

10:12AM 3 12. GOOD MORNING, MR. GORDON. AGAIN, THANKS FOR TELLING US

10:13AM 4 ABOUT YOUR ROOMMATE.

10:13AM 5 SO I JUST WANT TO EXPLORE THAT A LITTLE BIT BECAUSE THIS IS

10:13AM 6 SOMEBODY THAT YOU LIVE WITH NOW. AND SO WERE YOU TWO FRIENDS

10:13AM 7 BEFORE YOU BECAME ROOMMATES?

10:13AM 8 PROSPECTIVE JUROR: NO. WE MET THROUGH ONE OF MY OLD

10:13AM 9 CO-WORKERS.

10:13AM 10 MR. VAN NEST: AND HOW LONG AGO WAS THAT?

10:13AM 11 PROSPECTIVE JUROR: I THINK ABOUT A YEAR AGO.

10:13AM 12 MR. VAN NEST: SO YOU HAVE BEEN ROOMMATES FOR ABOUT A

10:13AM 13 YEAR?

10:13AM 14 PROSPECTIVE JUROR: YEAH.

10:13AM 15 MR. VAN NEST: HAVE YOU BECOME GOOD FRIENDS?

10:13AM 16 PROSPECTIVE JUROR: YEAH, WE ARE GOOD FRIENDS NOW.

10:13AM 17 MR. VAN NEST: SO DO YOU TWO HANG OUT TOGETHER WHEN

10:13AM 18 YOU ARE NOT AT WORK?

10:13AM 19 PROSPECTIVE JUROR: YEAH, WE PLAY VIDEO GAMES

10:13AM 20 TOGETHER.

10:13AM 21 MR. VAN NEST: HOW OFTEN DO YOU TALK ABOUT WORK?

10:13AM 22 PROSPECTIVE JUROR: NOT -- I WOULDN'T SAY FREQUENTLY.

10:13AM 23 IT'S A VERY SUPERFICIAL LEVEL WHEN WE DISCUSS WORK. IT'S LIKE

10:14AM 24 HOW WAS YOUR DAY AT WORK, JUST KIND OF GENERAL CONVERSATION.

10:14AM 25 IT'S NOT -- WE DON'T GO INTO ANY DETAIL ABOUT -- SOMETIMES I GO

10:14AM 1 INTO DETAIL WITH HIM ABOUT WHAT I DO, BUT HE'S NEVER GONE INTO
10:14AM 2 DETAIL ABOUT HIS SPECIFIC JOB POSITION, HIS ROLE, HIS DETAILS.

10:14AM 3 MR. VAN NEST: DO YOU KNOW WHAT HE DOES?

10:14AM 4 PROSPECTIVE JUROR: I KNOW HE WORKS IN FINANCE, BUT
10:14AM 5 I'M NOT VERY FAMILIAR WITH WHAT WORKING IN FINANCE ACTUALLY
10:14AM 6 ENTAILS.

10:14AM 7 MR. VAN NEST: OKAY. DO YOU KNOW WHETHER HE'S
10:14AM 8 SUPPORTING ANY PARTICULAR BUSINESS -- YOU KNOW THIS CASE IS
10:14AM 9 ABOUT SWITCHES AND POSSIBLY ROUTERS, BUT DO YOU KNOW WHAT AREAS
10:14AM 10 OF THE COMPANY HE'S SUPPORTING IN FINANCE?

10:14AM 11 PROSPECTIVE JUROR: NO, I DON'T.

10:14AM 12 MR. VAN NEST: AND HOW LONG HAS HE BEEN A CISCO
10:14AM 13 EMPLOYEE?

10:14AM 14 PROSPECTIVE JUROR: I BELIEVE HE GRADUATED FROM
10:14AM 15 BERKELEY TWO YEARS AGO AND STARTED A ROTATION PROGRAM AT CISCO,
10:14AM 16 AND HE WENT THROUGH THE FINANCE ROTATION PROGRAM FOR I THINK IT
10:14AM 17 WAS A YEAR, SPENDING EACH QUARTER IN A DIFFERENT POSITION AT
10:14AM 18 CISCO. AND THEN CISCO MADE HIM AN OFFER SEVERAL MONTHS AGO.
10:15AM 19 SO HE'S BEEN THERE, I THINK, CLOSER TO TWO YEARS NOW.

10:15AM 20 MR. VAN NEST: OKAY. AND YOU HEARD JUDGE FREEMAN'S
10:15AM 21 FREQUENT ADMONITION NOT TO TALK ABOUT THE CASE, AND I THINK YOU
10:15AM 22 SAID YOU FELT YOU COULD DO THAT.

10:15AM 23 PROSPECTIVE JUROR: YEAH.

10:15AM 24 MR. VAN NEST: I HAVE A SLIGHTLY DIFFERENT QUESTION
10:15AM 25 THOUGH, WHICH IS, HOW DIFFICULT WOULD IT BE FOR YOU TO RENDER A

10:15AM 1 VERDICT AGAINST CISCO IF THAT'S WHAT THE EVIDENCE REQUIRED,
10:15AM 2 KNOWING THAT YOUR ROOMMATE WORKS THERE AND YOU SEE HIM NOT
10:15AM 3 EVERY NIGHT BUT OFTEN, AND YOU'RE FRIENDS?

10:15AM 4 PROSPECTIVE JUROR: I DON'T THINK IT WOULD BE
10:15AM 5 DIFFICULT. I THINK IF IT WAS A SMALL COMPANY WHERE I FELT IT
10:15AM 6 WOULD HAVE AN IMPACT ON HIM, THAT WOULD BE AN OBVIOUS CONFLICT
10:15AM 7 OF INTEREST.

10:15AM 8 BUT MY GENERAL FEELING IS THAT MAYBE IT'S AN UNFOUNDED
10:16AM 9 FEELING, BUT IT SEEMS LIKE I COULD BE AN OBJECTIVE OBSERVER,
10:16AM 10 NOT FEEL LIKE WHAT I DO IN THIS COURTROOM WOULD HAVE MUCH OF AN
10:16AM 11 EFFECT ON HIM. AND THAT'S PROBABLY UNFOUNDED. I FEEL LIKE
10:16AM 12 EITHER WAY I COULD PROBABLY RENDER AN EVIDENCE BASED SOLELY ON
10:16AM 13 OBJECTIVE FACT. MY BACKGROUND IS AS A SCIENTIST. AND WHEN I
10:16AM 14 MAKE DECISIONS, IT'S NOT IN LIGHT OF WHETHER I FEEL IF
10:16AM 15 SOMETHING IS GOOD OR BAD, IT'S MOSTLY JUST BASED ON WHAT THE
10:16AM 16 EVIDENCE LEADS ME TO CONCLUDE

10:16AM 17 PROSPECTIVE JUROR: YEAH, EXACTLY.

10:16AM 18 MR. VAN NEST: FAIR ENOUGH. FAIR ENOUGH. I
10:16AM 19 APPRECIATE HEARING THAT.

10:16AM 20 YOU ALSO MENTIONED IN YOUR QUESTIONNAIRE THAT AT ONE OF
10:16AM 21 YOUR PRIOR EMPLOYERS THERE HAD BEEN, I THINK, A PATENT LAWSUIT
10:16AM 22 OF SOME KIND. AND DID YOU PLAY ANY ROLE IN THAT?

10:16AM 23 PROSPECTIVE JUROR: NO, NOT IN THAT. AT THAT
10:17AM 24 PREVIOUS EMPLOYER WORK THAT I DID DEFINITELY -- OR I THINK
10:17AM 25 CONTRIBUTED TO PATENTS AND INTELLECTUAL PROPERTY FOR THE

10:17AM 1 COMPANY. BUT THE PATENT LAWSUIT WAS FOR A PRODUCT THAT WAS
10:17AM 2 BROUGHT TO MARKET BEFORE I WAS AT THE COMPANY.

10:17AM 3 MR. VAN NEST: BEING00. SO DID YOU PLAY ANY ROLE IN
10:17AM 4 THE LAWSUIT?

10:17AM 5 PROSPECTIVE JUROR: NO.

10:17AM 6 MR. VAN NEST: WERE YOU AWARE OF IT?

10:17AM 7 PROSPECTIVE JUROR: NO.

10:17AM 8 MR. VAN NEST: AND IT DIDN'T HAVE ANY IMPACT ON THE
10:17AM 9 WORK YOU WERE DOING?

10:17AM 10 PROSPECTIVE JUROR: ONLY IN THE COMPANY PROBABLY
10:17AM 11 WOULDN'T HAVE EXISTED IF THEY HADN'T HAD BEEN SUCCESSFUL.

10:17AM 12 MR. VAN NEST: I'M SORRY. YOUR COMPANY OR THE OTHER
10:17AM 13 COMPANY?

10:17AM 14 PROSPECTIVE JUROR: THE COMPANY THAT I WAS WORKING
10:17AM 15 FOR PROBABLY WOULD NOT HAVE CONTINUED TO BE A COMPANY FOR ME TO
10:17AM 16 WORK AT IF THEY HAD NOT BE BEEN SUCCESSFUL IN THAT LAWSUIT.

10:17AM 17 MR. VAN NEST: OKAY. HAS THAT LEFT YOU WITH ANY
10:17AM 18 STRONG VIEWS ONE WAY OR THE OTHER IN PATENTS OR PATENT
10:17AM 19 LITIGATION OR PATENT INFRINGEMENT, THERE IS A PATENT INVOLVED
10:18AM 20 IN THIS CASE?

10:18AM 21 PROSPECTIVE JUROR: NO, I WOULDN'T SAY THAT
10:18AM 22 EXPERIENCE PUT ANY BIAS ON ME ONE WAY FOR HAVING FEELINGS ABOUT
10:18AM 23 PATENTS.

10:18AM 24 MR. VAN NEST: NOW, BOTH OF THESE COMPANIES HAVE
10:18AM 25 PATENTS BUT, OF COURSE, CISCO IS THE ONE ASSERTING THE PATENT

10:18AM 1 IN THIS CASE. WOULD THAT CAUSE YOU TO GIVE CISCO, JUST THAT
10:18AM 2 FACT STANDING ALONE THAT THEY ARE THE ONES WITH THE PATENT,
10:18AM 3 WOULD THEY START OUT AHEAD IN YOUR MIND?

10:18AM 4 PROSPECTIVE JUROR: NO. NOT HAVING BEEN EXPOSED TO
10:18AM 5 ANY OF THE EVIDENCE, I FEEL LIKE I'M COMING INTO IT WITHOUT ANY
10:18AM 6 PRECONCEIVED NOTIONS OF THE VALIDITY OF EITHER OF YOUR
10:18AM 7 ARGUMENTS. SO JUST THEM STARTING WITH THE PATENT, I DON'T SEE
10:18AM 8 THAT AS HOLDING ANY WEIGHT.

10:18AM 9 MR. VAN NEST: OKAY. SO WE ARE ON AN EQUAL FOOTING,
10:18AM 10 CISCO AND ARISTA, UNTIL YOU HEAR THE EVIDENCE?

10:18AM 11 PROSPECTIVE JUROR: CORRECT.

10:18AM 12 MR. VAN NEST: THANK YOU VERY MUCH, MR. GORDON.

10:18AM 13 I WANT TO ASK MR. TAN-CHENG CHOU, MR. ALEX, A COUPLE OF
10:19AM 14 QUESTIONS IF I COULD. I WILL COME BACK TO THE PANEL IN A
10:19AM 15 MINUTE.

10:19AM 16 THANK YOU. MAY I CALL YOU MR. ALEX?

10:19AM 17 PROSPECTIVE JUROR: YEAH.

10:19AM 18 MR. VAN NEST: YOU MENTIONED FRIENDS AND YOU HAD A
10:19AM 19 LITTLE DISCUSSION WITH MR. NELSON ABOUT THAT, AND I JUST WANT
10:19AM 20 TO EXPLORE A LITTLE BIT FURTHER.

10:19AM 21 DO YOU HAVE MORE THAN ONE FRIEND THAT IS RETIRED OR WORKING
10:19AM 22 NOW AT CISCO?

10:19AM 23 PROSPECTIVE JUROR: USED TO BE. I'M NOT SURE IF THEY
10:19AM 24 ARE STILL WORKING. I WORKED IN DIFFERENT AREAS. THEY ARE
10:19AM 25 WORKING IN CISCO IN PURCHASING, NOT IN THE ENGINEERING TEAM.

10:19AM 1 MR. VAN NEST: NOT IN ENGINEERING. SO HE'S IN
10:19AM 2 PURCHASING.
10:19AM 3 PROSPECTIVE JUROR: YEAH.
10:19AM 4 MR. VAN NEST: IS HE STILL THERE?
10:19AM 5 PROSPECTIVE JUROR: I THINK SO.
10:19AM 6 MR. VAN NEST: HOW OFTEN DO YOU SEE HIM?
10:19AM 7 PROSPECTIVE JUROR: PROBABLY ONCE A WEEK.
10:20AM 8 MR. VAN NEST: DO THE TWO OF YOU TALK ABOUT BUSINESS
10:20AM 9 OR WORK?
10:20AM 10 PROSPECTIVE JUROR: NO, NO. NOT AT ALL.
10:20AM 11 MR. VAN NEST: SO YOU ARE SOCIAL FRIENDS, NOT WORK
10:20AM 12 FRIENDS?
10:20AM 13 PROSPECTIVE JUROR: NOT WORK FRIENDS.
10:20AM 14 MR. VAN NEST: OKAY. AND HOW ABOUT -- YOU MENTIONED
10:20AM 15 FRIENDS, PLURAL. SO ARE THERE OTHER PEOPLE YOU KNOW THAT WORK
10:20AM 16 AT CISCO OR USED TO WORK?
10:20AM 17 PROSPECTIVE JUROR: USED TO WORK, YEAH. I DON'T KNOW
10:20AM 18 WHAT THEIR CURRENT STATUS IS.
10:20AM 19 MR. VAN NEST: HOW MANY ARE THERE?
10:20AM 20 PROSPECTIVE JUROR: ONE, TWO, THREE -- MAYBE THREE.
10:20AM 21 MR. VAN NEST: THREE. AND DO YOU SEE THEM ALL EVERY
10:20AM 22 WEEK LIKE THE OTHER PERSON?
10:20AM 23 PROSPECTIVE JUROR: NO, NO.
10:20AM 24 MR. VAN NEST: HOW OFTEN DO YOU SEE THE OTHER TWO?
10:20AM 25 PROSPECTIVE JUROR: MAYBE -- OH, SOME OF THEM, EVERY

10:20AM 1 TWO YEARS, TWICE IN TWO YEARS.

10:20AM 2 MR. VAN NEST: ONCE EVERY TWO YEARS. OKAY. IS THAT
10:20AM 3 TRUE FOR BOTH OF THEM?

10:20AM 4 PROSPECTIVE JUROR: SOME OF THEM I DIDN'T SEE FOR
10:20AM 5 QUITE A FEW YEARS, I BELIEVE.

10:20AM 6 MR. VAN NEST: OKAY. SO I TAKE IT THAT THE FACT THAT
10:21AM 7 YOU HAVE FRIENDS THAT EITHER DID WORK OR IN SOME CASES DO WORK
10:21AM 8 AT CISCO, THAT'S NOT LIKELY TO AFFECT YOUR THINKING ABOUT THIS
10:21AM 9 CASE?

10:21AM 10 PROSPECTIVE JUROR: I GUESS NOT, YEAH.

10:21AM 11 MR. VAN NEST: YOU GUESS NOT? ARE YOU -- ARE YOU
10:21AM 12 HESITATING A LITTLE BIT?

10:21AM 13 PROSPECTIVE JUROR: YES.

10:21AM 14 MR. VAN NEST: WHY? TELL US MORE?

10:21AM 15 PROSPECTIVE JUROR: BECAUSE I KNEW SOME OF THE
10:21AM 16 BUSINESS IN CISCO, AND I KNEW SOME --

10:21AM 17 MR. VAN NEST: I'M SORRY. YOU KNEW SOME OF THE
10:21AM 18 BUSINESS IN CISCO. WHAT DID YOU MEAN BY THAT?

10:21AM 19 PROSPECTIVE JUROR: I THINK ONE OF MY FRIENDS'S
10:21AM 20 COMPANY WAS TO BE PURCHASED BY OR ACQUIRED BY CISCO. AND THAT
10:21AM 21 MIGHT BE INVOLVED IN THE --

10:22AM 22 MR. VAN NEST: -- IN THE MARKET?

10:22AM 23 PROSPECTIVE JUROR: NO. THE PRODUCT HAS NEVER BEEN
10:22AM 24 USED.

10:22AM 25 MR. VAN NEST: OH, THE PRODUCT HAS NEVER BEEN USED.

10:22AM 1 OKAY.

10:22AM 2 PROSPECTIVE JUROR: THE COMPANY PURCHASED, ACQUIRED
10:22AM 3 THE PRODUCT BUT NEVER USED IT.

10:22AM 4 MR. VAN NEST: NEVER USED IT. OKAY.

10:22AM 5 BUT I TAKE IT TODAY YOU ARE NOT TALKING WITH ANY OF YOUR
10:22AM 6 FRIENDS A LOT ABOUT CISCO BUSINESS ONE WAY OR THE OTHER?

10:22AM 7 PROSPECTIVE JUROR: NO.

10:22AM 8 MR. VAN NEST: AND YOU ARE NOT SPEAKING WITH THEM
10:22AM 9 ABOUT SWITCHES OR ANY PARTICULAR PRODUCT LINES?

10:22AM 10 PROSPECTIVE JUROR: NO.

10:22AM 11 MR. VAN NEST: OKAY. THANK YOU VERY MUCH, MR. ALEX.

10:22AM 12 I WOULD LIKE TO -- CAN I HAND THIS MIC, YOUR HONOR, TO
10:22AM 13 MR. WATANABE?

10:22AM 14 THE COURT: YES.

10:22AM 15 MR. VAN NEST: GOOD MORNING, MR. WATANABE.

10:23AM 16 YOU HAVE SOME -- YOU MENTIONED A COUPLE OF YOUR SONS ARE IN
10:23AM 17 TECHNOLOGY COMPANIES.

10:23AM 18 PROSPECTIVE JUROR: YES.

10:23AM 19 MR. VAN NEST: AND ONE OF THEM I THINK YOU SAID WAS
10:23AM 20 AT COVANCE.

10:23AM 21 PROSPECTIVE JUROR: COVANCE.

10:23AM 22 MR. VAN NEST: WHAT DOES COVANCE DO?

10:23AM 23 PROSPECTIVE JUROR: IT'S A PHARMACEUTICAL RESEARCH
10:23AM 24 COMPANY.

10:23AM 25 MR. VAN NEST: AND DOES HE LIVE HERE IN THE BAY AREA?

10:23AM 1 PROSPECTIVE JUROR: NO, HE DOESN'T.

10:23AM 2 MR. VAN NEST: HOW OFTEN DO YOU TALK WITH HIM ABOUT

10:23AM 3 BUSINESS, IF EVER?

10:23AM 4 PROSPECTIVE JUROR: NOT VERY OFTEN.

10:23AM 5 MR. VAN NEST: HOW LONG HAS HE BEEN THERE?

10:23AM 6 PROSPECTIVE JUROR: MAYBE THREE YEARS.

10:23AM 7 MR. VAN NEST: IS IT A BIG COMPANY OR A STARTUP OR?

10:23AM 8 PROSPECTIVE JUROR: IT'S A BIG COMPANY. IT JUST GOT

10:23AM 9 BOUGHT OUT BY UNILAB SO I THINK IT'S A PRETTY BIG COMPANY.

10:23AM 10 MR. VAN NEST: OKAY. AND I TAKE IT -- IS HE AN

10:23AM 11 ENGINEER OR IS HE -- WHAT'S HIS LINE OF WORK?

10:23AM 12 PROSPECTIVE JUROR: HE'S A SUPERVISOR IN, I THINK

10:23AM 13 DATA AND RESEARCH DEPARTMENT.

10:23AM 14 MR. VAN NEST: OKAY. DOES HE HAVE ANY RESPONSIBILITY

10:23AM 15 FOR TECHNOLOGY THAT YOU KNOW OF?

10:23AM 16 PROSPECTIVE JUROR: NO, HE DOESN'T.

10:23AM 17 MR. VAN NEST: AND HE'S BEEN -- HE'S JUST STARTED

10:23AM 18 THERE AND NOW THEY HAVE BEEN ACQUIRED, I GUESS?

10:24AM 19 PROSPECTIVE JUROR: YEAH.

10:24AM 20 MR. VAN NEST: NOW, YOU HAVE ANOTHER SON AT T-MOBILE.

10:24AM 21 WHAT DOES HE DO THERE?

10:24AM 22 PROSPECTIVE JUROR: HE'S A SUPERVISOR FOR T-MOBILE.

10:24AM 23 MR. VAN NEST: DOES HE HAVE AN ENGINEERING

10:24AM 24 BACKGROUND.

10:24AM 25 PROSPECTIVE JUROR: NO, HE DOESN'T.

10:24AM 1 MR. VAN NEST: WHAT LINE OF WORK IS HE IN?

10:24AM 2 PROSPECTIVE JUROR: HE'S A RETAIL STORE MANAGER FOR

10:24AM 3 T-MOBILE.

10:24AM 4 MR. VAN NEST: IS HE HERE IN THE BAY AREA?

10:24AM 5 PROSPECTIVE JUROR: YES.

10:24AM 6 MR. VAN NEST: DO THEY HAVE, AS FAR AS YOU KNOW, ANY

10:24AM 7 RELATIONSHIP WITH CISCO?

10:24AM 8 PROSPECTIVE JUROR: NO, I'M NOT SURE.

10:24AM 9 MR. VAN NEST: OKAY. IS THERE -- HAS HE EVER TALKED

10:24AM 10 TO YOU ABOUT T-MOBILE AND THE CONTEXT OF CISCO OR RELATIONSHIP

10:24AM 11 WITH CISCO?

10:24AM 12 PROSPECTIVE JUROR: NO, HE HAS NO RELATIONSHIP.

10:24AM 13 MR. VAN NEST: AND I TAKE IT NOTHING ABOUT WHAT YOUR

10:24AM 14 KIDS DO, YOUR SONS DO WOULD HAVE ANY IMPACT ON YOUR THINKING

10:24AM 15 ABOUT THIS CASE?

10:24AM 16 PROSPECTIVE JUROR: NO.

10:24AM 17 MR. VAN NEST: OKAY. WOULD YOU PASS IT DOWN TO

10:24AM 18 MR. HAMILTON. HE'S TWO TO YOUR RIGHT -- TO YOUR LEFT.

10:25AM 19 GOOD MORNING, MR. HAMILTON. HOW ARE YOU?

10:25AM 20 PROSPECTIVE JUROR: GOOD.

10:25AM 21 MR. VAN NEST: YOU ARE SELF-EMPLOYED AS A CONTRACTOR?

10:25AM 22 PROSPECTIVE JUROR: YES.

10:25AM 23 MR. VAN NEST: HAVE YOUR OWN BUSINESS?

10:25AM 24 PROSPECTIVE JUROR: YES.

10:25AM 25 MR. VAN NEST: CONGRATULATIONS. IT SOUNDS LIKE YOU

10:25AM 1 HAVE BEEN DOING THAT A LONG TIME?

10:25AM 2 PROSPECTIVE JUROR: YES.

10:25AM 3 MR. VAN NEST: SO WHAT TECHNOLOGY DO YOU USE DAY TO
10:25AM 4 DAY IN YOUR BUSINESS?

10:25AM 5 PROSPECTIVE JUROR: NONE.

10:25AM 6 MR. VAN NEST: NONE. OKAY. DO YOU KNOW ANYTHING
10:25AM 7 ABOUT CISCO PRODUCTS?

10:25AM 8 PROSPECTIVE JUROR: I KNOW I LOST MONEY ON THEM.

10:25AM 9 MR. VAN NEST: OKAY. IN THE STOCK MARKET?

10:25AM 10 PROSPECTIVE JUROR: YEP.

10:25AM 11 MR. VAN NEST: OKAY. THAT WAS A LONG TIME AGO.

10:25AM 12 PROSPECTIVE JUROR: A LONG TIME AGO.

10:25AM 13 MR. VAN NEST: OKAY. AND PROBABLY ON SOME OTHER
10:25AM 14 STOCKS TOO?

10:25AM 15 PROSPECTIVE JUROR: YEAH.

10:25AM 16 MR. VAN NEST: NO DOUBT.

10:25AM 17 SO HAVE YOU DONE ANY WORK AS A CONTRACTOR FOR EITHER CISCO
10:25AM 18 OR ARISTA NETWORKS?

10:25AM 19 PROSPECTIVE JUROR: NOPE.

10:25AM 20 MR. VAN NEST: DO YOU HAVE ANYTHING IN -- ANY IRONS
10:25AM 21 IN THE FIRE WITH EITHER COMPANY NOW?

10:25AM 22 PROSPECTIVE JUROR: NOPE. I'M TRYING TO RETIRE.

10:25AM 23 MR. VAN NEST: TRYING TO RETIRE. GOOD FOR YOU.

10:25AM 24 CONGRATULATIONS AND GOOD LUCK.

10:25AM 25 YOU MENTIONED YOUR DAUGHTER IS A STOCK ANALYST. DOES SHE

10:25AM 1 ACTUALLY WORK AT LINKEDIN OR FOR A COMPANY THAT FOLLOWS

10:26AM 2 LINKEDIN?

10:26AM 3 PROSPECTIVE JUROR: SHE WORKS AT LINKEDIN.

10:26AM 4 MR. VAN NEST: AND WHAT AS A STOCK ANALYST DO YOU

10:26AM 5 KNOW WHAT SHE DOES THERE?

10:26AM 6 PROSPECTIVE JUROR: SHE'S A MANAGER.

10:26AM 7 MR. VAN NEST: SHE MANAGES OTHER ANALYSTS.

10:26AM 8 PROSPECTIVE JUROR: YEP.

10:26AM 9 MR. VAN NEST: DO YOU TALK WITH HER FREQUENTLY ABOUT

10:26AM 10 WHAT SHE DOES?

10:26AM 11 PROSPECTIVE JUROR: WE TALK ONCE IN A WHILE BEING

10:26AM 12 BOUGHT OUT MY MICROSOFT. SHE SAYS, WELL, YOU GOT A NEW JOB,

10:26AM 13 SHE SAYS, NOT YET, BUT I'M NOT WORRIED.

10:26AM 14 MR. VAN NEST: GOOD. GOOD FOR HER.

10:26AM 15 HOW LONG HAS SHE BEEN AT LINKEDIN.

10:26AM 16 PROSPECTIVE JUROR: FIVE YEARS.

10:26AM 17 MR. VAN NEST: SHE'S HAPPY THERE.

10:26AM 18 PROSPECTIVE JUROR: OH, YEAH. SHE LOVES THE PLACE.

10:26AM 19 MR. VAN NEST: DO YOU KNOW WHETHER OR NOT SHE FOLLOWS

10:26AM 20 CISCO AS A COMPANY OR A STOCK?

10:26AM 21 PROSPECTIVE JUROR: NO. SHE'S TOO BUSY WITH HER

10:26AM 22 WORLDWIDE TRADES.

10:26AM 23 MR. VAN NEST: OKAY. WORLDWIDE TRADES FOR LINKEDIN.

10:26AM 24 DO YOU KNOW WHETHER OR NOT SHE OR LINKEDIN HAVE ANY

10:26AM 25 RELATIONSHIPS WITH CISCO?

10:26AM 1 PROSPECTIVE JUROR: NO IDEA.

10:26AM 2 MR. VAN NEST: THAT'S NOT SOMETHING YOU'VE EVER
10:26AM 3 TALKED ABOUT?

10:26AM 4 PROSPECTIVE JUROR: NOPE.

10:26AM 5 MR. VAN NEST: SO WOULD -- APPRECIATING THE FACT THAT
10:27AM 6 YOU LOST MONEY SOME YEARS AGO ON THE STOCK, DO YOU HAVE ANY
10:27AM 7 DOUBT IN YOUR MIND THAT YOU COULD BE IMPARTIAL HERE AS WE
10:27AM 8 PRESENT THE EVIDENCE?

10:27AM 9 PROSPECTIVE JUROR: NOPE. I'M JUST FINE THE WAY IT
10:27AM 10 IS.

10:27AM 11 MR. VAN NEST: JUST FINE THE WAY IT IS.

10:27AM 12 PROSPECTIVE JUROR: YEAH.

10:27AM 13 MR. VAN NEST: WOULD IT BE DIFFICULT FOR YOU TO FIND
10:27AM 14 A VERDICT OF ZERO FOR CISCO -- THEY ARE ASKING FOR A LOT OF
10:27AM 15 MONEY -- IF THAT'S WHAT YOU FELT THE EVIDENCE REQUIRED?

10:27AM 16 PROSPECTIVE JUROR: I DON'T KNOW. I JUST -- IT'S
10:27AM 17 JUST ONE OF THESE THINGS THAT SOME COMPANIES GET ABUSIVE AND
10:27AM 18 SOME COMPANIES RELAXED ON WHAT THEY DO, AS FAR AS STOCKS -- NOT
10:27AM 19 STOCKS, BUT PATENTS AND COPYRIGHTS. SO I DON'T KNOW. I WOULD
10:27AM 20 JUST HAVE TO SEE WHAT GOES ON.

10:27AM 21 MR. VAN NEST: WHAT DO YOU MEAN SOME COMPANIES GET
10:27AM 22 ABUSIVE AND SOME RELAX --

10:27AM 23 PROSPECTIVE JUROR: THERE'S SOME PEOPLE WHO WILL LET
10:27AM 24 IT SLIDE A LITTLE BIT. POSSIBLY THEY CAN TAKE ADVANTAGE OR IN
10:28AM 25 SOME WAY, BUT I DON'T KNOW. I DON'T GET INVOLVED.

10:28AM 1 MR. VAN NEST: OKAY. AND JUST TO FOLLOW THAT
10:28AM 2 THOUGHT, WHEN YOU SAY LET IT SLIDE A LITTLE BIT, WHAT ARE YOU
10:28AM 3 REFERRING TO? LET WHAT SLIDE?

10:28AM 4 PROSPECTIVE JUROR: SOMEONE HAS A SQUARE NAIL AND
10:28AM 5 THEY WANT TO PUT IT IN A ROUND HOLE AND SOMEONE SAYS, WELL, IF
10:28AM 6 WE ROUND THE CORNERS OFF IT WILL FIT IN A ROUND HOLE SO WE WILL
10:28AM 7 JUST LET IT GO.

10:28AM 8 MR. VAN NEST: OKAY. AND PERTAINING THAT TO OUR
10:28AM 9 CASE, DOES THAT, DOES THAT GIVE YOU CONCERN ABOUT YOUR ABILITY
10:28AM 10 TO JUDGE THE CASE BASED ON THE MERITS OF THE EVIDENCE AS
10:28AM 11 OPPOSED TO WHO THE PARTIES ARE AND WHO IS ASKING FOR WHAT?

10:28AM 12 PROSPECTIVE JUROR: IT'S EITHER ONE. WHOEVER WANTS
10:28AM 13 WHAT. I DON'T -- I DON'T KNOW. I DON'T KNOW ANYTHING ABOUT
10:28AM 14 IT, SO I DON'T KNOW.

10:28AM 15 MR. VAN NEST: OKAY. SO YOU ARE COMING INTO IT --

10:28AM 16 PROSPECTIVE JUROR: I'M BLIND.

10:28AM 17 MR. VAN NEST: YOU ARE BLIND ON IT. TO PUT IT
10:28AM 18 ANOTHER WAY, YOU ARE COMING INTO IT WITH AN OPEN MIND?

10:29AM 19 PROSPECTIVE JUROR: YEP.

10:29AM 20 MR. VAN NEST: NO PRECONCEPTIONS EITHER WAY.

10:29AM 21 PROSPECTIVE JUROR: NO.

10:29AM 22 MR. VAN NEST: OKAY. THANK YOU. THANKS,
10:29AM 23 MR. HAMILTON.

10:29AM 24 MS. KOSAI?

10:29AM 25 PROSPECTIVE JUROR: YES.

10:29AM 1 MR. VAN NEST: GOOD MORNING. HOW ARE YOU?

10:29AM 2 PROSPECTIVE JUROR: GOOD MORNING. FINE.

10:29AM 3 MR. VAN NEST: YOU ARE RETIRED?

10:29AM 4 PROSPECTIVE JUROR: YES, I AM.

10:29AM 5 MR. VAN NEST: CONGRATULATIONS.

10:29AM 6 PROSPECTIVE JUROR: THANK YOU.

10:29AM 7 MR. VAN NEST: NOW, YOU NOTED THAT YOUR HUSBAND

10:29AM 8 WORKED FOR SOME YEARS AT IBM?

10:29AM 9 PROSPECTIVE JUROR: YES.

10:29AM 10 MR. VAN NEST: IS HE RETIRED ALSO NOW?

10:29AM 11 PROSPECTIVE JUROR: YES.

10:29AM 12 MR. VAN NEST: WHAT DID HE DO FOR IBM?

10:29AM 13 PROSPECTIVE JUROR: HE WAS A TECH ENGINEER, WENT

10:29AM 14 AROUND FIXING COMPUTERS.

10:29AM 15 MR. VAN NEST: OKAY.

10:29AM 16 PROSPECTIVE JUROR: AND SYSTEMS.

10:29AM 17 MR. VAN NEST: AND HE HAD A LONG CAREER AT IBM?

10:29AM 18 PROSPECTIVE JUROR: YES.

10:29AM 19 MR. VAN NEST: WAS HE TRAINED AS AN ENGINEER?

10:29AM 20 THE WITNESS: NO.

10:30AM 21 MR. VAN NEST: HOW WAS HE ABLE TO FIX COMPUTERS?

10:30AM 22 PROSPECTIVE JUROR: WELL, YEAH, I GUESS HE WAS

10:30AM 23 TRAINED. HE WENT TO A COMPUTER SCHOOL WHEN HE GOT OUT OF THE

10:30AM 24 NAVY.

10:30AM 25 MR. VAN NEST: OKAY. SO THAT WAS A COMPUTER TRAINING

10:30AM 1 SCHOOL.

10:30AM 2 PROSPECTIVE JUROR: RIGHT.

10:30AM 3 MR. VAN NEST: IS HE TECHNICALLY AN ELECTRICAL
10:30AM 4 ENGINEER OR MECHANICAL ENGINEER?

10:30AM 5 PROSPECTIVE JUROR: YOU KNOW, I REALLY DON'T KNOW
10:30AM 6 EXACTLY -- THAT'S TERRIBLE TO SAY.

10:30AM 7 MR. VAN NEST: NO, IT'S NOT. WE ARE NOT GOING TO
10:30AM 8 TELL HIM ANYTHING THAT HAPPENED. TRUST US. WE WILL KEEP THAT
10:30AM 9 TO OURSELVES.

10:30AM 10 DO YOU KNOW -- DID HE DO ANY WORK FOR IBM WITH CISCO?

10:30AM 11 PROSPECTIVE JUROR: HE BOUGHT CISCO SYSTEMS'S
10:30AM 12 EQUIPMENT.

10:30AM 13 MR. VAN NEST: OKAY. AND WHAT DO YOU KNOW ABOUT
10:30AM 14 THAT?

10:30AM 15 PROSPECTIVE JUROR: NOT A WHOLE LOT OTHER THAN I SEE
10:30AM 16 THE BOXES IN MY GARAGE STILL.

10:30AM 17 MR. VAN NEST: OKAY. HE NEEDS TO CLEAN THOSE OUT.
10:30AM 18 THAT, WE WILL TELL HIM.

10:30AM 19 PROSPECTIVE JUROR: THAT HE NEEDS TO DO.

10:30AM 20 MR. VAN NEST: SO WAS THAT SOMETHING HE DID AS PART
10:30AM 21 OF HIS JOB AT IBM OR WAS THAT SOMETHING HE DID TO BUY ROUTERS
10:31AM 22 FOR THE HOUSE?

10:31AM 23 PROSPECTIVE JUROR: HE DID IT FOR IBM.

10:31AM 24 MR. VAN NEST: AND WHAT REALM DID HE HAVE WITH CISCO
10:31AM 25 AS AN IBM EMPLOYEE? WAS HE INSTALLING THEIR EQUIPMENT?

10:31AM 1 PROSPECTIVE JUROR: YOU KNOW, I'M NOT REALLY TOO SURE
10:31AM 2 ON THAT. I KNOW HE WOULD USE THEIR EQUIPMENT.
10:31AM 3 MR. VAN NEST: OKAY.
10:31AM 4 PROSPECTIVE JUROR: OCCASIONALLY LIKE HE DID AT OTHER
10:31AM 5 COMPANIES.
10:31AM 6 MR. VAN NEST: ALL RIGHT.
10:31AM 7 WAS HE EVER -- DID HE VISIT WITH THE FOLKS AT CISCO?
10:31AM 8 PROSPECTIVE JUROR: PROBABLY.
10:31AM 9 MR. VAN NEST: DID YOU OR HE HAVE ANY SOCIAL
10:31AM 10 RELATIONSHIPS WITH FOLKS AT CISCO?
10:31AM 11 PROSPECTIVE JUROR: NO.
10:31AM 12 MR. VAN NEST: DID YOU KNOW, DID HE HAVE A STRONG
10:31AM 13 OPINION ABOUT CISCO PRODUCTS ONE WAY OR THE OTHER THAT HE
10:31AM 14 SHARED WITH YOU?
10:31AM 15 PROSPECTIVE JUROR: NO, NOT REALLY. HE'S A VERY
10:31AM 16 QUIET MAN.
10:31AM 17 MR. VAN NEST: OKAY. YOU SAY NOT REALLY. IS THERE
10:31AM 18 ANYTHING IN THE BACK OF YOUR MIND THAT HE TOLD YOU ABOUT CISCO
10:31AM 19 THAT YOU'VE RECALLED AFTER THIS TIME?
10:32AM 20 PROSPECTIVE JUROR: NO.
10:32AM 21 MR. VAN NEST: ONE WAY OR THE OTHER?
10:32AM 22 NOW, YOU MENTIONED YOUR SON IS AN ENGINEERING TECHNICIAN.
10:32AM 23 WHAT IS HE DOING?
10:32AM 24 PROSPECTIVE JUROR: I REALLY DON'T KNOW WHAT HE DOES.
10:32AM 25 I KNOW HE INSPECTS WHEN THEY ARE BUILDING, AND HE SOMETIMES

10:32AM 1 GETS UNDERGROUND TO MAKE SURE THAT THE FOUNDATIONS ARE ALL --

10:32AM 2 MR. VAN NEST: OKAY. DO YOU KNOW WHERE HE WORKS?

10:32AM 3 PROSPECTIVE JUROR: NO.

10:32AM 4 MR. VAN NEST: IS IT A GOVERNMENT LIKE THE CITY OR
10:32AM 5 THE COUNTY OR IT'S A PRIVATE COMPANY?

10:32AM 6 PROSPECTIVE JUROR: IT'S A SMALL PRIVATE COMPANY. IN
10:32AM 7 SUNNYVALE.

10:32AM 8 MR. VAN NEST: ALL RIGHT. IS HE TRAINED IN
10:32AM 9 ENGINEERING?

10:32AM 10 PROSPECTIVE JUROR: NO. YOU KNOW, I DON'T EVEN KNOW
10:32AM 11 WHAT MY KIDS DO.

10:32AM 12 MR. VAN NEST: OKAY. FAIR ENOUGH. FAIR ENOUGH.
10:32AM 13 WELL, I'M JUST FOLLOWING UP A LITTLE BIT.

10:32AM 14 BUT I TAKE IT HE HASN'T DISCUSSED WITH YOU ANY RELATIONSHIP
10:32AM 15 THAT HE MIGHT HAVE WITH CISCO?

10:32AM 16 PROSPECTIVE JUROR: NO.

10:32AM 17 MR. VAN NEST: ONE WAY OR THE OTHER.

10:33AM 18 YOUR HONOR, HOW MUCH TIME DO I HAVE LEFT?

10:33AM 19 THE COURT: YOU HAVE ABOUT SEVEN OR EIGHT MINUTES.

10:33AM 20 MR. VAN NEST: SEVEN OR EIGHT MINUTES, OKAY.

10:33AM 21 LET'S GO ON HERE TO MR. LANDEROS. DO I HAVE THAT RIGHT?

10:33AM 22 PROSPECTIVE JUROR: YES.

10:33AM 23 MR. VAN NEST: THANK YOU.

10:33AM 24 YOU MENTIONED THAT YOU HAD SOME TECH CLASSES. YOU HAD A
10:33AM 25 LONG LIST OF STUFF TO CHECK.

10:33AM 1 PROSPECTIVE JUROR: JUST GENERAL EDUCATION. NOTHING
10:33AM 2 ADVANCED.

10:33AM 3 MR. VAN NEST: OKAY. SO DO YOU REMEMBER, THESE WERE
10:33AM 4 GENERAL TECHNOLOGY CLASSES RATHER THAN ANYTHING SPECIFIC?

10:33AM 5 PROSPECTIVE JUROR: YES.

10:33AM 6 MR. VAN NEST: DO YOU REMEMBER WHAT AREAS OF
10:33AM 7 TECHNOLOGY WERE INVOLVED?

10:33AM 8 PROSPECTIVE JUROR: I CAN'T RECALL.

10:33AM 9 MR. VAN NEST: OKAY. HOW LONG AGO THAT WAS?

10:33AM 10 PROSPECTIVE JUROR: TEN YEARS AGO.

10:33AM 11 MR. VAN NEST: OKAY. ALL RIGHT. THEY -- ETHERNET
10:33AM 12 SWITCHES, ETHERNET ROUTING, WERE THOSE INVOLVED IN ANY OF THE
10:33AM 13 TRAINING?

10:33AM 14 PROSPECTIVE JUROR: NO.

10:33AM 15 MR. VAN NEST: AND I KNOW YOU WORK FOR THE CITY.

10:33AM 16 WHAT TECHNOLOGY DO YOU USE IN YOUR JOB TODAY?

10:34AM 17 PROSPECTIVE JUROR: WE USE ADOBE, ADOBE. AS FAR AS
10:34AM 18 THE SPECIFIC TECHNOLOGY, I'M NOT SURE. I MAINLY JUST SUPERVISE
10:34AM 19 THE IMAGING CENTER. WHEN WE GET PLANS FOR THE CONSTRUCTION
10:34AM 20 SITES, WE GET THEM THROUGH OUR SYSTEM.

10:34AM 21 MR. VAN NEST: DOES THAT INVOLVE NETWORKING EQUIPMENT
10:34AM 22 THAT YOU HAVE ANY RESPONSIBILITY FOR?

10:34AM 23 PROSPECTIVE JUROR: I'M NOT REALLY TOO INVOLVED IN
10:34AM 24 ANY OF THE TECHNOLOGY THAT WE USE.

10:34AM 25 MR. VAN NEST: SO HOW MANY PEOPLE ARE YOU SUPERVISING

10:34AM 1 IN THE IMAGING DEPARTMENT?

10:34AM 2 PROSPECTIVE JUROR: FOUR OR FIVE.

10:34AM 3 MR. VAN NEST: ARE ANY OF THOSE FOLKS RESPONSIBLE FOR
10:34AM 4 NETWORK, I.T., ANYTHING LIKE THAT.

10:34AM 5 PROSPECTIVE JUROR: NO.

10:34AM 6 MR. VAN NEST: DO YOU HAVE ANY CISCO PRODUCTS AT YOUR
10:34AM 7 WORK?

10:34AM 8 PROSPECTIVE JUROR: NOT THAT I CAN THINK OF.

10:34AM 9 MR. VAN NEST: HOW ABOUT ARISTA, DO YOU HAVE ANY
10:34AM 10 ARISTA SWITCHES NETWORK IN THE CITY?

10:35AM 11 PROSPECTIVE JUROR: I DON'T THINK SO.

10:35AM 12 MR. VAN NEST: AND I TAKE IT THAT YOU ARE SUPERVISING
10:35AM 13 FOLKS, THERE'S AN I.T. DEPARTMENT SEPARATE FROM YOURS THAT
10:35AM 14 HANDLES I.T.?

10:35AM 15 PROSPECTIVE JUROR: CORRECT.

10:35AM 16 MR. VAN NEST: DO YOU TALK WITH THEM ON A REGULAR
10:35AM 17 BASIS?

10:35AM 18 PROSPECTIVE JUROR: YEAH, JUST ON THE GENERAL
10:35AM 19 PROBLEMS WEER HAVING BUT NEVER ON THE LEVEL OF WHAT PRODUCTS WE
10:35AM 20 ARE USING OR WHAT TYPE OF TECHNOLOGY.

10:35AM 21 MR. VAN NEST: SO NO DISCUSSION ABOUT SPECIFIC
10:35AM 22 COMPANIES GENERALLY? IT'S JUST, HEY, WE ARE HAVING A PROBLEM,
10:35AM 23 WE NEED SOME HELP? AND THEN YOU WAIT AND YOU WAIT AND YOU WAIT
10:35AM 24 AND THEN THE HELP FINALLY COMES, SOMETHING LIKE THAT?

10:35AM 25 PROSPECTIVE JUROR: YES.

10:35AM 1 MR. VAN NEST: I THINK WE ARE ALL IN THE SAME BOAT.

10:35AM 2 DO YOU HAVE ANY FRIENDS? CISCO IS OBVIOUSLY A BIG EMPLOYER
10:35AM 3 HERE IN SAN JOSE. DO YOU HAVE ANY FRIENDS THAT WORK AT CISCO
10:35AM 4 OR FAMILY MEMBERS, ANYTHING LIKE THAT?

10:35AM 5 PROSPECTIVE JUROR: NO.

10:35AM 6 MR. VAN NEST: OKAY. GREAT. THANK YOU,
10:35AM 7 MR. LANDEROS, I APPRECIATE THAT.

10:35AM 8 SO I WANT TO ASK SOME GENERAL QUESTIONS JUST IN THE VERY
10:35AM 9 FEW MINUTES THAT I'VE GOT. AND I KNOW YOU ALL FILLED OUT
10:35AM 10 QUESTIONNAIRES, SO WE APPRECIATE THAT. AND I DON'T WANT TO
10:36AM 11 REPEAT ANY, BUT THERE'S JUST A COUPLE OF AREAS THAT I WANT TO
10:36AM 12 MAKE SURE THAT WE'VE COVERED.

10:36AM 13 AND ONE I ASKED, AND THAT IS, THIS IS A COPYRIGHT CASE AND
10:36AM 14 CISCO IS THE ONE THAT HOLDS THE COPYRIGHTS THAT ARE BEING
10:36AM 15 ASSERTED.

10:36AM 16 DOES ANYBODY FEEL THAT CISCO HAS AN ADVANTAGE COMING IN
10:36AM 17 JUST BECAUSE THEY HOLD THE COPYRIGHTS AND THEY ARE THE ONES
10:36AM 18 ASSERTING THE COPYRIGHT?

10:36AM 19 DOES ANYBODY FEEL THAT THAT GIVES THEM AN ADVANTAGE? THEY
10:36AM 20 ARE ON SOMETHING OTHER THAN A LEVEL PLAYING FIELD RIGHT AT THE
10:36AM 21 START? DON'T BE SHY. OKAY. GREAT.

10:36AM 22 THE COURT: WE DO HAVE A HAND UP. MR. WATANABE.

10:36AM 23 MR. VAN NEST: MR. LANDEROS, COULD YOU PASS HIM THE
10:36AM 24 MIC.

10:36AM 25 MR. WATANABE, TELL ME WHAT ARE YOU THINKING?

10:36AM 1 PROSPECTIVE JUROR: WELL, IT'S NOT THAT I -- JUST
10:36AM 2 THEM HAVE AN ADVANTAGE. I THINK THEM BEING A LARGE COMPANY HAS
10:37AM 3 AN ADVANTAGE BECAUSE I OWN STOCK AND IT DEALS IN SECURITY AND
10:37AM 4 SAFEGUARD PROTECTION. AND THEY OWN PATENT LICENSING AND SO FOR
10:37AM 5 THE LAST FOUR YEARS I FOLLOW THE STOCK, AND I SEE ALL THE BIG
10:37AM 6 COMPANIES THAT SUE OTHER LITTLE COMPANIES.

10:37AM 7 AND YOU KNOW, EVEN CISCO, I MEAN, I DON'T WANT TO SAY IT,
10:37AM 8 BUT I KNOW THAT CISCO SIX MONTHS AGO WAS ORDERED TO PAY
10:37AM 9 MILLIONS WHEN THEY WERE GETTING SUED. AND THEN THREE OR
10:37AM 10 FOUR YEARS AGO THEY WERE ORDERED AGAIN TO PAY MILLIONS TO
10:37AM 11 ANOTHER COMPANY THAT I WON'T EVEN MENTION IN THE SAME TYPE OF
10:37AM 12 PATENT INFRINGEMENT LAWSUIT.

10:37AM 13 SO PERSONALLY I THINK THIS JUST WAS ALL AROUND ALL THESE
10:37AM 14 COMPANIES.

10:37AM 15 MR. VAN NEST: SO DOES THAT CAUSE YOU TO GIVE ONE OR
10:37AM 16 THE OTHER COMPANY AN ADVANTAGE? THAT'S WHAT I'M NOT
10:37AM 17 UNDERSTANDING.

10:37AM 18 PROSPECTIVE JUROR: YEAH, I TEND TO FAVOR -- TO BE
10:37AM 19 HONEST, I TEND TO FAVOR THE LITTLE PERSON.

10:37AM 20 MR. VAN NEST: THE LITTLE GUY?

10:37AM 21 PROSPECTIVE JUROR: YEAH.

10:37AM 22 MR. VAN NEST: BUT --

10:37AM 23 PROSPECTIVE JUROR: AND I SEE IT GOING AROUND ALL
10:38AM 24 SILICON VALLEY. IF YOU FOLLOW CERTAIN TYPES OF STOCKS, YOU SEE
10:38AM 25 THEY ARE ALL SUING EACH OTHER. EVERYBODY SUES EACH OTHER.

10:38AM 1 MR. VAN NEST: OKAY. BUT HERE BEFORE ANY EVIDENCE
10:38AM 2 HAS BEEN PRESENTED, THESE ARE BOTH SUBSTANTIAL COMPANIES. YOU
10:38AM 3 KNOW, ONE IS BIGGER THAN THE OTHER, BUT THEY ARE BOTH DOING
10:38AM 4 PRETTY WELL.

10:38AM 5 DO YOU THINK THAT IN THIS CASE, WITHOUT HAVING HEARD ANY
10:38AM 6 EVIDENCE, YOU WOULD TEND TO FAVOR ONE OR THE OTHER WITHOUT EVEN
10:38AM 7 HEARING ANY EVIDENCE?

10:38AM 8 PROSPECTIVE JUROR: I WOULD TEND, TO BE HONEST WITH
10:38AM 9 YOU, TEND TO FAVOR THE LITTLER GUY, JUST TO BE HONEST. JUST
10:38AM 10 WHAT I HAVE SEEN FROM THE FACTS, CISCO INVOLVED IN OTHER
10:38AM 11 LAWSUITS BEFORE FROM DOING THE RESEARCH ON THE STOCK THAT I
10:38AM 12 OWN.

10:38AM 13 MR. VAN NEST: THANK YOU, MR. WATANABE. THANK YOU
10:38AM 14 FOR BEING SO CANDID TOO.

10:38AM 15 DOES ANYBODY ELSE HAVE A FEELING -- OKAY. LET'S GET THE
10:39AM 16 MIC OVER HERE.

10:39AM 17 THE COURT: THAT'S MS. GREENSTEIN.

10:39AM 18 PROSPECTIVE JUROR: I THINK IF THEY OWN THE PATENT,
10:39AM 19 THEY WOULD REALLY HAVE TO SHOW WHY THEY WOULD TAKE IT. AND IT
10:39AM 20 WOULD BE A CHALLENGE, AND I'M OPEN FOR THAT.

10:39AM 21 BUT I DO BELIEVE THAT IF THEY OWN THE PATENT, THEY HAVE
10:39AM 22 PROOF THAT THEY OWN IT, WHY WOULD THEY TAKE IT? I WOULD HAVE
10:39AM 23 TO HEAR THE EVIDENCE.

10:39AM 24 MR. VAN NEST: YOU WOULD HAVE TO HEAR THE EVIDENCE?

10:39AM 25 PROSPECTIVE JUROR: I WOULD HAVE TO HEAR THE

10:39AM 1 EVIDENCE.

10:39AM 2 MR. VAN NEST: SURE. AND BEFORE HEARING ANY
10:39AM 3 EVIDENCE, DO YOU BELIEVE YOU COULD BE IMPARTIAL AND FAIR TO
10:39AM 4 BOTH PARTIES AND BASE YOUR RULING, YOUR DECISION, JUST ON THE
10:39AM 5 EVIDENCE?

10:39AM 6 PROSPECTIVE JUROR: IF THEY PROVE IT AND FOLLOW THE
10:39AM 7 LAW, ABSOLUTELY.

10:39AM 8 MR. VAN NEST: THANK YOU.

10:39AM 9 MR. ALEX?

10:39AM 10 PROSPECTIVE JUROR: YEAH. I THINK INFRINGEMENT IS
10:39AM 11 SOMETIMES VERY DIFFICULT TO JUSTIFY. ESPECIALLY FOR BIG
10:39AM 12 COMPANIES, THEY OWN QUITE A FEW PATENTS. AND THE PROBLEM IS
10:40AM 13 THE FUNCTION IS SIMILAR OR PEOPLE FROM -- OR PEOPLE THAT USED
10:40AM 14 TO WORK FOR CISCO AND COME TO OTHER COMPANIES AND THEY COPY
10:40AM 15 WHAT THEY HAD THE KNOWLEDGE OF THE TECHNOLOGY FROM CISCO AND
10:40AM 16 PUT IT INTO THE NEW COMPANY. THAT IS THE COPIED PRODUCT.

10:40AM 17 BUT THE FUNCTION WISE IS CISCO HAS IT AND SOME COMPANIES
10:40AM 18 MAKE -- THEY DUPLICATE OR MAKE A SIMILAR PRODUCT WITH SIMILAR
10:40AM 19 FUNCTIONS. AND IN THAT PORTION, MY PERSONAL FEELINGS IS I
10:40AM 20 DON'T FEEL THAT'S A COPYRIGHT.

10:40AM 21 MR. VAN NEST: OKAY. BUT, AGAIN, MR. ALEX, MY
10:40AM 22 QUESTION IS DOES EITHER SIDE START OFF WITH AN ADVANTAGE JUST
10:40AM 23 BECAUSE CISCO HAS A COPYRIGHT, OR COULD YOU JUDGE THE CASE
10:41AM 24 BASED ON THE EVIDENCE?

10:41AM 25 PROSPECTIVE JUROR: AS I SAID, THE EVIDENCE IS, IS

10:41AM 1 VERY TECHNICAL, NOT MOST PEOPLE CAN JUSTIFY IT. THAT'S WHAT I
10:41AM 2 THOUGHT.

10:41AM 3 MR. VAN NEST: OKAY. THANK YOU. THANK YOU. I WILL
10:41AM 4 LEAVE THE MIC THERE FOR JUST A MINUTE.

10:41AM 5 I WANT TO ASK ANOTHER SIMILAR QUESTION OF EVERYBODY. AND
10:41AM 6 THAT IS THAT THERE'S A CLAIM IN A COPYRIGHT CASE OF COPYING,
10:41AM 7 COPYING, AND YOU WILL HEAR THAT THERE'S A -- WILL BE A
10:41AM 8 DISCUSSION ABOUT FAIR USE, WHICH IS A DEFENSE TO COPYING IN
10:41AM 9 SOME CIRCUMSTANCES.

10:41AM 10 SO MY QUESTION FOR THE GROUP IS, IS THERE ANYBODY WHERE
10:41AM 11 COPYING IS SOMETHING THAT CAN BE A HOT BUTTON? IS THERE
10:41AM 12 ANYBODY HERE THAT WOULD, JUST BASED ON A CLAIM OF COPYING, BE
10:42AM 13 UNABLE TO APPLY THE LAW AS JUDGE FREEMAN GIVES IT AND EVALUATE
10:42AM 14 A DEFENSE LIKE FAIR USE, WHICH IS A DEFENSE TO COPYING? IS
10:42AM 15 THERE ANYBODY SO CONCERNED ABOUT COPYING THAT THEY WOULD BE
10:42AM 16 UNABLE TO FOLLOW THE LAW WHICH MAKES FAIR USE, A DEFENSE TO
10:42AM 17 COPYING, IN SOME SITUATIONS? I WILL ASK FOR HANDS ON THAT ONE
10:42AM 18 TOO. ANYBODY WHO THINKS THEY WOULD HAVE TROUBLE WITH THAT?

10:42AM 19 MS. CHUANG.

10:42AM 20 PROSPECTIVE JUROR: I THINK EVERYBODY COPIES. IT'S
10:42AM 21 JUST HOW WELL WE COPY. AND I WORK WITH DESIGNERS AND I
10:42AM 22 ATTENDED SOME FAMOUS SPEAKERS WHO TALK ABOUT DESIGN. THEY TALK
10:42AM 23 ABOUT GOOD DESIGNER COPIES. SO I THINK THE DEFINITION OF
10:42AM 24 COPYING IS -- IT'S ILL-DEFINED.

10:42AM 25 MR. VAN NEST: BUT THAT WOULDN'T -- YOU WOULD BE ABLE

10:42AM 1 TO FOLLOW THE JUDGE'S INSTRUCTIONS, I TAKE IT?

10:42AM 2 PROSPECTIVE JUROR: SURE, SURE. THERE'S A LAW AND
10:42AM 3 THEN YOU UNDERSTAND BY THE LAW HOW IS IT DONE. BUT PERSONALLY
10:42AM 4 I FEEL LIKE COPYING IS OVERRATED.

10:43AM 5 MR. VAN NEST: OKAY. BUT YOU WOULD BE ABLE TO SIT
10:43AM 6 AND EVALUATE THE EVIDENCE AS ITS PRESENTED AND APPLY THE LAW
10:43AM 7 THAT JUDGE FREEMAN --

10:43AM 8 PROSPECTIVE JUROR: I DEFINITELY HAVE BIAS. I
10:43AM 9 UNDERSTAND THE LAW, SO BIAS IS SO WHAT'S COPYING, EVERYBODY
10:43AM 10 COPIES, EVERYTHING HAS BEEN COPIED.

10:43AM 11 MR. VAN NEST: THANK YOU. THANK YOU.

10:43AM 12 ANYBODY ELSE? I HAVE ANOTHER ONE. MR. GORDON.

10:43AM 13 PROSPECTIVE JUROR: I FEEL LIKE I WOULD BE ABLE TO
10:43AM 14 FAIRLY MAKE A DECISION BASED ON THE EVIDENCE. I WOULD JUST SAY
10:43AM 15 THAT COMING FROM A SCIENTIFIC BACKGROUND, PLAGIARISM IS PRETTY
10:43AM 16 MUCH A CARDINAL SIN. IN THAT RESPECT, THAT'S THE ONLY BIAS
10:43AM 17 THAT I WOULD HAVE.

10:43AM 18 BUT COMPARING FAIR USE TO COPYING, OR WHAT I WOULD CALL
10:43AM 19 PLAGIARISM, I DON'T HAVE ANY PRECONCEIVED NOTIONS OF HOW THOSE
10:43AM 20 TWO INTERPLAY. SO I THINK I COULD DO THAT FAIRLY.

10:43AM 21 MR. VAN NEST: THANK YOU. THANK YOU FOR SHARING THAT
10:43AM 22 WITH US, MR. GORDON.

10:44AM 23 IS THERE ANYONE HERE THAT'S EITHER --

10:44AM 24 THE COURT: WE ARE OUT OF TIME.

10:44AM 25 MR. VAN NEST: WE ARE OUT OF TIME. THANK YOU,

10:44AM 1 YOUR HONOR. AND THANKS, EVERYBODY.

10:44AM 2 THE COURT: ALL RIGHT. THANK YOU, MR. VAN NEST.

10:44AM 3 ALL RIGHT. THANK YOU ALL FOR RESPONDING TO THOSE
10:44AM 4 QUESTIONS. I KNOW IT'S A LITTLE NERVE RACKING TO BE PUT ON THE
10:44AM 5 SPOT IN A ROOM FULL OF PEOPLE, ESPECIALLY IN A COURTROOM. SO
10:44AM 6 THANK YOU ALL. YOU'VE REALLY HELPED US A GREAT DEAL.

10:44AM 7 LET ME TELL YOU WHAT WE'RE GOING TO DO NEXT. FIRST OF ALL,
10:44AM 8 YOU ARE GOING TO GET A BRING, SO I'M SURE YOU WILL LIKE THAT.
10:44AM 9 AND I'M GOING TO GIVE YOU A BREAK UNTIL TEN MINUTES PAST 11:00.
10:44AM 10 THAT WILL GIVE US ENOUGH TIME.

10:44AM 11 LET ME TELL YOU WHAT WE ARE GOING TO BE DOING. I'M GOING
10:44AM 12 TO LEAVE THE COURTROOM WITH THE LAWYERS, AND WE ARE GOING TO
10:44AM 13 TALK ABOUT WHAT WE'VE LEARNED FROM YOU. AND IN THAT PROCESS,
10:44AM 14 WE ARE GOING TO SELECT THE JURY.

10:44AM 15 WHEN YOU RETURN, I WILL BE EXCUSING A NUMBER OF YOU, AND
10:44AM 16 THE REMAINDER WILL BE SWORN AS JURORS, AND WE WILL GET STARTED
10:45AM 17 WITH THE TRIAL.

10:45AM 18 I'M GOING TO MAKE IT A LITTLE BIT LONGER BREAK BECAUSE I
10:45AM 19 THINK THE LAWYERS WOULD PROBABLY LIKE A BREAK AFTER WE ARE DONE
10:45AM 20 WITH OUR DISCUSSIONS AS WELL. SO I WANT TO GIVE THEM THE TIME
10:45AM 21 TO DO THAT.

10:45AM 22 SO LET ME REMIND YOU, DON'T TALK ABOUT THE CASE TO ANYONE,
10:45AM 23 DON'T LOOK UP ANYTHING ON YOUR PHONE, OR WHATEVER ELECTRONIC
10:45AM 24 DEVICE YOU HAVE, YOU CAN'T DO ANY KIND OF RESEARCH OR
10:45AM 25 INVESTIGATION. YOU CANNOT CHAT WITH EACH OTHER ABOUT WHAT'S

10:45AM 1 GOING ON IN THE COURTROOM, BUT FEEL FREE TO TALK AMONG
10:45AM 2 YOURSELVES IF THAT'S SOMETHING THAT WOULD BE PLEASANT TO GET TO
10:45AM 3 KNOW EACH OTHER.

10:45AM 4 AS YOU CAN SEE, THE COURTROOM HAS LOTS OF PEOPLE WHO ARE
10:45AM 5 NOT PROSPECTIVE JURORS AND THE COURTROOM IS OPEN TO THE PUBLIC,
10:45AM 6 AND WE WELCOME THE PUBLIC EVERY DAY. BUT SOME OF THOSE PEOPLE
10:45AM 7 ARE RELATED TO THIS TRIAL. PLEASE DON'T TALK TO ANY OF THEM.
10:45AM 8 THEY KNOW IT IS THEIR JOB NOT TO TALK TO YOU.

10:45AM 9 AND SO IF YOU APPROACH SOMEONE, EVEN WITH THE BENIGN
10:45AM 10 QUESTION OF WHAT TIME IS IT, YOU ARE GOING TO SEE THEM TURN
10:45AM 11 AROUND AND WALK AWAY FROM YOU NERVOUSLY BECAUSE I HAVE
10:45AM 12 INSTRUCTED THEM THAT THEY CANNOT HAVE ANY CONTACT WITH YOU.

10:46AM 13 SO PLEASE UNDERSTAND THEY ARE NOT BEING RUDE, THEY ARE JUST
10:46AM 14 TRYING TO PRESERVE THE APPROPRIATENESS OF THIS ENVIRONMENT SO
10:46AM 15 THAT JURORS ARE NOT -- DO NOT HAVE ANY OUTSIDE INPUT FROM
10:46AM 16 SOMEONE RELATED TO THE CASE.

10:46AM 17 SO WITH THAT I'M GOING TO LET YOU GO FOR YOUR BREAK.

10:46AM 18 AND, COUNSEL, IF YOU WOULD JOIN ME IN THE JURY ROOM.

10:46AM 19 (WHEREUPON A RECESS WAS TAKEN.)

11:20AM 20 THE COURT: ALL RIGHT. PLEASE BE SEATED. ALL OF OUR
11:20AM 21 JURORS ARE HERE AND ALL COUNSEL.

11:20AM 22 LADIES AND GENTLEMEN, THANK YOU ARE FOR YOUR COURTESY.

11:21AM 23 SORRY THAT GOT TO BE A LITTLE LONG. I DON'T ALWAYS HAVE THE
11:21AM 24 RIGHT ESTIMATE AND SOMETIMES I'M TOO AMBITIOUS.

11:21AM 25 HOWEVER, WE ARE NOW READY TO MOVE ON. AND LET ME TELL YOU

1 WHAT I'M GOING TO DO. I TOLD YOU BEFORE THAT WE WERE GOING TO
2 TALK ABOUT WHAT WE HEARD.

3 THE LAW ALLOWS ME TO DETERMINE THAT SOME OF YOU SHOULD BE
4 EXCUSED BASED UPON THE CONTENT OF YOUR ANSWERS. THERE ARE NO
5 WRONG ANSWERS IN GIVING RESPONSES. BUT I HAVE TO DETERMINE IF
6 YOU -- IF I THINK YOU CAN BE FAIR AND OPEN MINDED IN THIS CASE.

7 IN ADDITION TO THAT, EACH SIDE IS ALLOWED TO EXCUSE UP TO
8 THREE JURORS FOR NO REASON GIVEN. IT'S CALLED A PEREMPTORY
9 CHALLENGE. AND THE ATTORNEYS HERE, AS IN EVERY CASE I'VE EVER
10 PRESIDED OVER, HAVE DONE THAT.

11 NOW I'M NOT GOING TO TELL YOU WHICH ONE OF YOU WERE
12 PEREMPTORY CHALLENGES AND WHICH ONE WERE CAUSE, I DON'T WANT
13 YOU TO FEEL LIKE YOU GAVE A BAD ANSWER OR WRONG ANSWER, AND I
14 WILL CONFIRM IN THE RECORD AFTERWARDS EXACTLY HOW THAT WENT
15 DOWN.

16 BUT I AM GOING TO EXCUSE THE FOLLOWING JURORS, AND THEN WE
17 WILL MOVE FORWARD FROM THERE, AND THESE ARE IN NO -- THEY ARE
18 GENERALLY IN THE ORDER YOU ARE SITTING BUT NOT ENTIRELY.

19 SO I WOULD LIKE THAT THANK -- AND YOU CERTAINLY MAY LEAVE.
20 I WOULD LIKE TO THANK ERICA CHUANG. THANK YOU FOR YOUR
21 SERVICE.

22 GLEN WATANABE, THANK YOU FOR YOUR SERVICE.

23 GARY FRY. MR. FRY, THANK YOU FOR YOUR JURY SERVICE.

24 MR. GRIER-RODDY, THANK YOU FOR YOUR JURY SERVICE.

25 MR. BHAKTA, THANK YOU FOR YOUR JURY SERVICE. YOU ARE FREE

11:22AM 1 TO GO.

11:22AM 2 LET'S SEE, ALEX CHOU, THANK YOU FOR YOUR JURY SERVICE.

11:22AM 3 I WOULD LIKE TO THANK LAURA MURPHY. THANK YOU FOR YOUR

11:22AM 4 JURY SERVICE.

11:22AM 5 ELIZABETH NEELY. THANK YOU FOR YOUR JURY SERVICE

11:22AM 6 LAURA GREENSTEIN, THANK YOU FOR YOUR JURY SERVICE. YOU ARE

11:22AM 7 FREE TO GO.

11:22AM 8 ALL RIGHT. AND NOW I WANT TO MAKE SURE I HAVE SEVEN PEOPLE

11:23AM 9 SITTING HERE. AND YOU KNOW I'M LOOKING FOR EIGHT.

11:23AM 10 AND I WOULD LIKE MR. GONDA, ROBERT GONDA. WHERE ARE YOU?

11:23AM 11 SIR, YOU ARE GOING TO JOIN THE GROUP UP HERE. YOU CAN SIT

11:23AM 12 ANYWHERE. I WILL TELL YOU WHAT ORDER YOU ARE IN LATER.

11:23AM 13 AND, COUNSEL, I AM GOING TO READ THE NAMES OF THE JURORS

11:23AM 14 WHO HAVE BEEN SELECTED. PLEASE LET ME KNOW IF THERE ARE ANY

11:23AM 15 MISTAKES THAT I HAVE MADE. AND FOR THOSE OF YOU WHEN I CALL

11:23AM 16 YOUR NAME, WOULD YOU JUST RAISE YOUR HAND SO I CAN CONFIRM I'VE

11:23AM 17 GOT THE RIGHT PEOPLE.

11:23AM 18 JASON HWANG, MILES RUUD, JERRY HAMILTON, WONDA GROVE,

11:23AM 19 EVAN GORDON, ISABEL KOSAI, IVAN LANDEROS, AND ROBERT GONDA.

11:24AM 20 COUNSEL, IS THIS THE JURY WE HAVE SELECTED?

11:24AM 21 MR. PAK: CORRECT YOUR HONOR.

11:24AM 22 MR. VAN NEST: YES, YOUR HONOR.

11:24AM 23 THE COURT: ALL RIGHT. LET'S HAVE THE JURORS SWORN.

11:24AM 24 LADIES AND GENTLEMEN, THE LAW REQUIRES THAT EACH OF YOU TAKE AN

11:24AM 25 OATH TO SERVE ON THE JURY. WE ARE GOING TO DO IT AS A GROUP

11:24AM 1 BUT EACH OF YOU IS REQUIRED TO AFFIRMATIVELY ACCEPT THAT OATH.
11:24AM 2 SO IF YOU WOULD PLEASE STAND.

11:24AM 3 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

11:24AM 4 (SELECTED JURORS WERE GIVEN THE OATH.)

11:24AM 5 JURORS: YES.

11:24AM 6 THE COURT: ALL RIGHT. PLEASE BE SEATED.

11:24AM 7 COUNSEL, IS THERE ANY REASON I CANNOT EXCUSE THE REMAINDER
11:24AM 8 OF THE JURY PANEL?

11:24AM 9 MR. VAN NEST: NO, YOUR HONOR.

11:24AM 10 MR. NELSON: THAT'S FINE, YOUR HONOR.

11:24AM 11 THE COURT: THANK YOU. THANK YOU, BOTH.

11:24AM 12 ALL RIGHT. LADIES AND GENTLEMEN, THOSE OF YOU IN THE
11:24AM 13 AUDIENCE WHO CAME HERE FOR JURY SERVICE, THANK YOU VERY MUCH.

11:24AM 14 I REALLY APPRECIATE THE TIME OUT OF YOUR BUSY SCHEDULES AND THE
11:24AM 15 ATTENTION THAT YOU PAID TO THIS CASE.

11:24AM 16 ALL CASES THAT ARE TRIED IN COURTROOMS ACROSS THE COUNTRY
11:24AM 17 ARE VERY IMPORTANT. NOT ONLY TO THE INDIVIDUALS OR COMPANIES
11:25AM 18 THAT ARE INVOLVED IN THE CASE, BUT TO OUR ENTIRE COMMUNITY AND
11:25AM 19 TO OUR COUNTRY.

11:25AM 20 AS I DESCRIBED TO YOU, IT IS THE FOUNDATION OF OUR SYSTEM
11:25AM 21 OF JUSTICE AND YOU PARTICIPATED, AND I THANK YOU FOR THAT.

11:25AM 22 YOU ARE ALL FREE TO GO. YOU CAN TALK ABOUT THE CASE, OR
11:25AM 23 NOT. YOU CAN FOLLOW IT, OR NOT. THAT IS UP TO YOU.

11:25AM 24 YOU CANNOT HAVE CONTACT WITH THE SEATED JURORS, I THINK
11:25AM 25 THAT IS OBVIOUS, BUT IF YOU KNOW ANY OF THEM, THEY WON'T BE

11:25AM 1 ABLE TO TALK ABOUT IT UNTIL THEY ARE DONE WITH THE CASE.

11:25AM 2 BUT WITH THAT, LADIES AND GENTLEMEN, ALL OF YOU ARE FREE TO
11:25AM 3 GO. AND THANK YOU AGAIN.

11:25AM 4 ALL RIGHT. LET ME DESCRIBE TO YOU WHAT WE ARE GOING TO DO
11:26AM 5 FOR THE REST OF THE DAY. I TRY NOT TO LOSE ANY TIME, BECAUSE
11:26AM 6 EVERY MINUTE WE ARE IN TRIAL NOW IS THE MINUTE LESS AT THE BACK
11:26AM 7 END WHEN YOU COULD BE BACK TO YOUR NORMAL LIVES.

11:26AM 8 THE FIRST THING THAT I NEED TO DO IS TO READ TO YOU SOME OF
11:26AM 9 THE INITIAL JURY INSTRUCTIONS. I DON'T READ THE VERY DETAILED
11:26AM 10 INSTRUCTIONS ON THE LAW THAT I WILL GIVE YOU AFTER YOU'VE HEARD
11:26AM 11 THE EVIDENCE. I FIND THEY MAKE MORE SENSE AFTER YOU HEARD THE
11:26AM 12 FACTS AND THE EVIDENCE IN THE CASE. BUT THESE INITIAL
11:26AM 13 INSTRUCTIONS ARE DESIGNED TO HELP YOU UNDERSTAND YOUR JOB AS
11:26AM 14 JURORS AND GIVE YOU SOME OVERVIEW OF THE ISSUES AND SOME
11:26AM 15 IMPORTANT INFORMATION ABOUT THE LAW IN THIS CASE.

11:26AM 16 WHEN I'M DONE WITH THAT, I'M GOING TO TURN TO CISCO.
11:26AM 17 MR. NELSON IS GOING TO GIVE AN OPENING STATEMENT. AND WHEN
11:26AM 18 HE'S DONE I WILL TURN TO ARISTA, MR. VAN NEST, WILL GIVE HIS
11:26AM 19 OPENING STATEMENT. AND WE CAN'T GET ALL OF THAT DONE BEFORE
11:26AM 20 LUNCH, NOR WILL WE.

11:26AM 21 SO I'M GOING TO GO AHEAD AND BEGIN READING. SINCE WE HAD
11:27AM 22 SUCH A LENGTHY BREAK, I'M PROBABLY GOING TO GET STARTED ON THE
11:27AM 23 OPENING STATEMENT AND THEN TAKE A BREAK FOR LUNCH. WE WILL
11:27AM 24 TAKE AN HOUR FOR LUNCH, AND I WILL JUST GAUGE THAT BASED ON
11:27AM 25 WHERE WE ARE IN THE PROCESS.

11:27AM 1 AND AS SOON AS THE OPENING STATEMENTS ARE DONE, WE ARE
11:27AM 2 GOING TO HAVE THE FIRST WITNESS CALLED. SO WE REALLY ARE GOING
11:27AM 3 TO GET STARTED.

11:27AM 4 NOW, BEFORE I START READING THESE, LET ME TELL YOU, YOU
11:27AM 5 WILL HAVE NOTEBOOKS WHEN YOU COME BACK FROM LUNCH SO YOU CAN
11:27AM 6 TAKE NOTES, BUT WILL HAVE THESE WRITTEN INSTRUCTIONS IN THE
11:27AM 7 JURY ROOM AT THE END OF THE CASE. SO THIS MAY FEEL LIKE IT
11:27AM 8 GOES BY QUICKLY, AND SOME OF YOU MAY BE NOTE TAKERS LIKE I AM,
11:27AM 9 BUT TRUST ME, YOU WILL HAVE THEM IN THE VERY FORM THAT I AM
11:27AM 10 READING FROM.

11:27AM 11 NOW THE LAW DOES REQUIRE THAT I READ THE INSTRUCTIONS TO
11:27AM 12 YOU. IT'S NOT THE MOST INTERESTING READING AND IT'S -- BUT
11:27AM 13 IT'S VERY IMPORTANT, AND SO I ASK THAT YOU ALL LISTEN TO THE
11:27AM 14 INSTRUCTIONS AND THEN WE WILL GET STARTED.

11:27AM 15 MEMBERS OF THE JURY, YOU ARE NOW THE JURY IN THIS CASE. IT
11:27AM 16 IS MY DUTY TO INSTRUCT YOU ON THE LAW.

11:27AM 17 AT THE END OF THE TRIAL I WILL GIVE YOU FINAL INSTRUCTIONS.
11:28AM 18 IT IS THE FINAL INSTRUCTIONS THAT WILL GOVERN YOUR DUTIES.

11:28AM 19 IT IS YOUR DUTY TO FIND THE FACTS FROM ALL THE EVIDENCE IN
11:28AM 20 THE CASE. TO THOSE FACTS YOU WILL APPLY THE LAW AS I GIVE IT
11:28AM 21 TO YOU. YOU MUST FOLLOW THE LAW AS I GIVE IT TO YOU WHETHER
11:28AM 22 YOU AGREE WITH IT OR NOT. AND YOU MUST NOT BE INFLUENCED BY
11:28AM 23 ANY PERSONAL LIKES OR DISLIKES, OPINIONS, PREJUDICES OR
11:28AM 24 SYMPATHY. THAT MEANS THAT YOU MUST DECIDE THE CASE SOLELY ON
11:28AM 25 THE EVIDENCE BEFORE YOU. YOU WILL RECALL THAT YOU TOOK AN OATH

11:28AM 1 TO DO SO.

11:28AM 2 PLEASE DO NOT READ INTO THESE INSTRUCTIONS OR ANYTHING I
11:28AM 3 MAY SAY OR DO THAT I HAVE AN OPINION REGARDING THE EVIDENCE OR
11:28AM 4 WHAT YOUR VERDICT SHOULD BE.

11:28AM 5 TO HELP YOU FOLLOW THE EVIDENCE, I WILL GIVE YOU A BRIEF
11:28AM 6 SUMMARY OF THE POSITIONS OF THE PARTIES.

11:28AM 7 THE PLAINTIFF IN THIS CASE IS CISCO SYSTEMS, INC., WHICH I
11:28AM 8 WILL REFER TO AS CISCO. AND THE DEFENDANT IS ARISTA NETWORKS,
11:28AM 9 INC., WHICH I WILL REFER TO AS ARISTA. THIS IS A CASE
11:28AM 10 INVOLVING CLAIMS OF COPYRIGHT AND PATENT INFRINGEMENT. CISCO
11:29AM 11 SELLS NETWORKING SWITCHES.

11:29AM 12 CISCO ASSERTS THAT ARISTA INFRINGED CISCO'S COPYRIGHTS BY
11:29AM 13 COPYING CERTAIN ELEMENTS OF CISCO'S USER INTERFACES AND COPYING
11:29AM 14 CERTAIN PORTIONS OF CISCO'S PRODUCT MANUALS.

11:29AM 15 CISCO HAS THE BURDEN OF PROVING ITS CLAIMS OF COPYRIGHT
11:29AM 16 INFRINGEMENT. ARISTA CONTENDS THAT IT DOES NOT INFRINGE ANY OF
11:29AM 17 CISCO'S COPYRIGHTS. ARISTA ALSO ASSERTS AS AFFIRMATIVE
11:29AM 18 DEFENSES THAT ANY USE OF THE ACCUSED ELEMENTS IS A FAIR USE
11:29AM 19 UNDER THE LAW, THAT THE ASSERTED ELEMENTS OF CISCO'S WORKS ARE
11:29AM 20 NOT PROTECTED BY COPYRIGHT BECAUSE OF THE MERGER AND
11:29AM 21 SCENES A' FAIRE DOCTRINES AND THAT CISCO HAS MISUSED ITS
11:29AM 22 COPYRIGHTS AND ABANDONED ITS COPYRIGHTS.

11:29AM 23 ARISTA HAS THE BURDEN OF PROOF ON THESE AFFIRMATIVE
11:30AM 24 DEFENSES.

11:30AM 25 CISCO ALSO ASSERTS THAT ARISTA HAS INFRINGED UNITED STATES

11:30AM 1 PATENT NUMBER 7,047,526 WHICH I AND THE PARTIES WILL REFER TO
11:30AM 2 AS THE '526 PATENT. CISCO ALSO ASSERTS THAT ARISTA INFRINGED
11:30AM 3 THE '526 PATENT WILLFULLY.

11:30AM 4 CISCO HAS THE BURDEN OF PROVING ITS CLAIM OF PATENT
11:30AM 5 INFRINGEMENT AND ITS CLAIM OF WILLFULNESS. ARISTA DENIES THAT
11:30AM 6 IT INFRINGED THE '526 PATENT.

11:30AM 7 TRIALS PROCEED IN THE FOLLOWING WAY. FIRST, EACH SIDE MAY
11:30AM 8 MAKE AN OPENING STATEMENT. AN OPENING STATEMENT IS NOT
11:30AM 9 EVIDENCE. IT IS SIMPLY AN OUTLINE TO HELP YOU UNDERSTAND WHAT
11:30AM 10 THE PARTY EXPECTS THE EVIDENCE WILL SHOW. A PARTY IS NOT
11:30AM 11 REQUIRED TO MAKE AN OPENING STATEMENT.

11:30AM 12 THE PLAINTIFF, CISCO, WILL THEN PRESENT EVIDENCE, AND
11:30AM 13 COUNSEL FOR THE DEFENDANT, ARISTA, MAY CROSS-EXAMINE. THEN
11:30AM 14 ARISTA MAY PRESENT EVIDENCE, AND COUNSEL FOR CISCO MAY
11:31AM 15 CROSS-EXAMINE.

11:31AM 16 AFTERWARDS, ONE OR BOTH SIDES MAY THEN PRESENT REBUTTAL
11:31AM 17 EVIDENCE TO RESPOND TO THE OTHER PARTY.

11:31AM 18 AFTER THE EVIDENCE HAS BEEN PRESENTED, I WILL INSTRUCT YOU
11:31AM 19 ON THE LAW THAT APPLIES TO THE CASE, AND THE ATTORNEYS WILL
11:31AM 20 MAKE CLOSING ARGUMENTS.

11:31AM 21 AFTER THAT, YOU WILL GO TO THE JURY ROOM TO DELIBERATE ON
11:31AM 22 YOUR VERDICT.

11:31AM 23 THE EVIDENCE YOU ARE TO CONSIDER IN DECIDING WHAT THE FACTS
11:31AM 24 ARE CONSISTS OF:

11:31AM 25 THE SWORN TESTIMONY OF ANY WITNESS;

1 THE EXHIBITS THAT ARE ADMITTED INTO EVIDENCE;

2 ANY FACTS TO WHICH THE LAWYERS HAVE AGREED; AND,

3 ANY FACTS THAT I MAY INSTRUCT YOU TO ACCEPT AS PROOF.

4 CERTAIN THINGS ARE NOT EVIDENCE, AND YOU MAY NOT CONSIDER
5 THEM IN DECIDING WHAT THE FACTS ARE.

6 I WILL LIST THEM FOR YOU:

7 ARGUMENTS AND STATEMENTS BY LAWYERS ARE NOT EVIDENCE. THE
8 LAWYERS ARE NOT WITNESSES. WHAT THEY MAY SAY IN YOUR OPENING
9 STATEMENTS, CLOSING ARGUMENTS AND AT OTHER TIMES IS INTENDED TO
10 HELP YOU INTERPRET THE EVIDENCE. BUT IT IS NOT EVIDENCE.

11 IF THE FACTS AS YOU REMEMBER THEM DIFFER FROM THE WAY THE
12 LAWYERS HAVE STATED THEM, YOUR MEMORY OF THEM CONTROLS.

13 QUESTIONS AND OBJECTIONS BY LAWYERS ARE NOT EVIDENCE.
14 ATTORNEYS HAVE A DUTY TO THEIR CLIENTS TO OBJECT WHEN THEY
15 BELIEVE A QUESTION IS IMPROPER UNDER THE RULES OF EVIDENCE.
16 YOU SHOULD NOT BE INFLUENCED BY THE OBJECTION OR BY THE COURT'S
17 RULING ON IT.

18 TESTIMONY OR EXHIBITS THAT ARE EXCLUDED OR STRICKEN, OR
19 THAT YOU ARE INSTRUCTED TO DISREGARD, ARE NOT EVIDENCE AND MUST
20 NOT BE CONSIDERED. IN ADDITION, SOME EVIDENCE MAY BE RECEIVED
21 ONLY FOR A LIMITED PURPOSE. WHEN I INSTRUCT YOU TO CONSIDER
22 CERTAIN EVIDENCE ONLY FOR A LIMITED PURPOSE, YOU MUST DO SO AND
23 YOU MAY NOT CONSIDER THAT EVIDENCE FOR ANY OTHER PURPOSE.

24 ANYTHING YOU MAY SEE OR HEAR WHEN THE COURT IS NOT IN
25 SESSION IS NOT EVIDENCE. YOU ARE TO DECIDE THE CASE SOLELY ON

11:33AM 1 THE EVIDENCE RECEIVED AT THE TRIAL.

11:33AM 2 THERE ARE RULES OF EVIDENCE THAT CONTROL WHAT CAN BE
11:33AM 3 RECEIVED INTO EVIDENCE. WHEN A LAWYER ASKS A QUESTION OR
11:33AM 4 OFFERS AN EXHIBIT INTO EVIDENCE AND A LAWYER ON THE OTHER SIDE
11:33AM 5 THINKS THAT IT IS NOT PERMITTED BY THE RULES OF EVIDENCE, THAT
11:33AM 6 LAWYER MAY OBJECT.

11:33AM 7 IF I OVERRULE THE OBJECTION, THE QUESTION MAY BE ANSWERED
11:33AM 8 OR THE EXHIBIT RECEIVED.

11:33AM 9 IF I SUSTAIN THE OBJECTION, THE QUESTION CANNOT BE ANSWERED
11:33AM 10 AND THE EXHIBIT CANNOT BE RECEIVED.

11:33AM 11 WHENEVER I SUSTAIN AN OBJECTION TO A QUESTION, YOU MUST
11:33AM 12 IGNORE THE QUESTION AND MUST NOT GUESS WHAT THE ANSWER MIGHT
11:33AM 13 HAVE BEEN.

11:33AM 14 SOMETIMES I MAY ORDER THAT EVIDENCE BE STRICKEN FROM THE
11:33AM 15 RECORD AND THAT YOU DISREGARD OR IGNORE THAT EVIDENCE. THAT
11:33AM 16 MEANS WHEN YOU ARE DECIDING THE CASE, YOU MUST NOT CONSIDER THE
11:33AM 17 STRICKEN EVIDENCE FOR ANY PURPOSE.

11:33AM 18 IF YOU WISH, YOU MAY TAKE NOTES TO HELP YOU REMEMBER THE
11:34AM 19 EVIDENCE. IF YOU DO TAKE NOTES, PLEASE KEEP IN MIND -- I'M
11:34AM 20 SORRY. PLEASE KEEP THEM TO YOURSELF UNTIL YOU GO TO THE JURY
11:34AM 21 ROOM TO DECIDE THE CASE. DO NOT LET NOTE TAKING DISTRACT YOU.

11:34AM 22 WHEN YOU LEAVE, YOUR NOTES SHOULD BE LEFT IN THE COURTROOM.
11:34AM 23 NO ONE WILL READ YOUR NOTES.

11:34AM 24 WHETHER OR NOT YOU TAKE NOTES, YOU SHOULD RELY ON YOUR OWN
11:34AM 25 MEMORY OF THE EVIDENCE. NOTES ARE ONLY TO ASSIST YOUR MEMORY.

11:34AM 1 YOU SHOULD NOT BE OVERLY INFLUENCED BY YOUR NOTES OR THOSE OF
11:34AM 2 OTHER JURORS.

11:34AM 3 I WILL NOW SAY A FEW WORDS ABOUT YOUR CONDUCT AS JURORS.

11:34AM 4 FIRST, KEEP AN OPEN MIND THROUGHOUT THE TRIAL AND DO NOT
11:34AM 5 DECIDE WHAT THE VERDICT SHOULD BE UNTIL YOU AND YOUR FELLOW
11:34AM 6 JURORS HAVE COMPLETED YOUR DELIBERATIONS AT THE END OF THE
11:34AM 7 CASE.

11:34AM 8 SECOND, BECAUSE YOU MUST DECIDE THIS CASE BASED ONLY ON THE
11:34AM 9 EVIDENCE RECEIVED IN THE CASE AND ON MY INSTRUCTIONS AS TO THE
11:34AM 10 LAW THAT APPLIES, YOU MUST NOT BE EXPOSED TO ANY OTHER
11:34AM 11 INFORMATION ABOUT THE CASE OR TO THE ISSUES IT INVOLVES DURING
11:35AM 12 THE COURSE OF YOUR JURY DUTY.

11:35AM 13 THUS, UNTIL THE END OF THE CASE, OR UNLESS I TELL YOU
11:35AM 14 OTHERWISE, DO NOT COMMUNICATE WITH ANYONE IN ANY WAY AND DO NOT
11:35AM 15 LET ANYONE ELSE COMMUNICATE WITH YOU IN ANY WAY ABOUT THE
11:35AM 16 MERITS OF THE CASE OR ANYTHING TO DO WITH IT.

11:35AM 17 THIS INCLUDES DISCUSSING THE CASE IN PERSON, IN WRITING, BY
11:35AM 18 PHONE OR ELECTRONIC MEANS, VIA E-MAIL, TEXT MESSAGING, OR ANY
11:35AM 19 INTERNET CHAT ROOM, BLOG, WEBSITE, OR APPLICATION, INCLUDING
11:35AM 20 BUT NOT LIMITED TO, FACEBOOK, YOUTUBE, TWITTER, INSTAGRAM,
11:35AM 21 LINKEDIN, SNAPCHAT, OR ANY OTHER FORMS OF SOCIAL MEDIA.

11:35AM 22 THIS APPLIES TO COMMUNICATING WITH YOUR FELLOW JURORS UNTIL
11:35AM 23 I GIVE YOU THE CASE FOR DELIBERATION AND IT APPLIES TO
11:35AM 24 COMMUNICATING WITH EVERYONE ELSE, INCLUDING YOUR FAMILY
11:35AM 25 MEMBERS, YOUR EMPLOYER, THE MEDIA OR PRESS, AND THE PEOPLE

1 INVOLVED IN THE TRIAL, ALTHOUGH YOU MAY NOTIFY YOUR FAMILY AND
2 YOUR EMPLOYER THAT YOU HAVE BEEN SEATED AS A JUROR IN THE CASE
3 AND HOW LONG YOU EXPECT THE TRIAL TO LAST.

4 BUT IF YOU ARE ASKED OR APPROACHED IN ANY WAY ABOUT YOUR
5 JURY SERVICE OR ANYTHING ABOUT THE CASE, YOU MUST RESPOND THAT
6 YOU HAVE BEEN ORDERED NOT TO DISCUSS THE MATTER AND REPORT THE
7 CONDUCT TO THE COURT.

8 BECAUSE YOU WILL RECEIVE ALL EVIDENCE AND LEGAL
9 INSTRUCTIONS YOU PROPERLY MAY CONSIDER TO REACH YOUR VERDICT,
10 DO NOT READ, WATCH OR LISTEN TO ANY NEWS OR MEDIA ACCOUNTS OR
11 COMMENTARY ABOUT THE CASE OR ANYTHING TO DO WITH IT. DO NOT DO
12 ANY RESEARCH, SUCH AS CONSULTING DICTIONARIES, SEARCHING THE
13 INTERNET OR USING ANY OTHER REFERENCE MATERIALS AND DO NOT MAKE
14 ANY INVESTIGATION IN ANY OTHER WAY TO TRY TO LEARN ABOUT THE
15 CASE ON YOUR OWN. DO NOT VISIT OR VIEW ANY PLACE DISCUSSED IN
16 THIS CASE, AND DO NOT USE INTERNET PROGRAMS OR OTHER DEVICES TO
17 SEARCH FOR OR VIEW ANY PLACE DISCUSSED DURING THE TRIAL.

18 ALSO, DO NOT DO ANY RESEARCH ABOUT THE CASE, THE LAW OR THE
19 PEOPLE INVOLVED IN IT, INCLUDING THE PARTIES, THE WITNESSES OR
20 THE LAWYERS UNTIL YOU HAVE BEEN EXCUSED AS JURORS.

21 IF YOU HAPPEN TO READ OR HEAR ANYTHING TOUCHING ON THE CASE
22 IN THE MEDIA, TURN AWAY AND REPORT IT TO ME AS SOON AS
23 POSSIBLE.

24 THESE RULES PROTECT EACH PARTY'S RIGHTS TO HAVE THIS CASE
25 DECIDED ONLY ON EVIDENCE THAT HAD BEEN PRESENTED HERE IN COURT.

1 WITNESSES HERE IN COURT TAKE AN OATH TO TELL THE TRUTH, AND THE
2 ACCURACY OF THEIR TESTIMONY IS TESTED THROUGH THE TRIAL
3 PROCESS.

4 IF YOU DO ANY RESEARCH OR INVESTIGATION OUTSIDE THE
5 COURTROOM, OR GAIN ANY INFORMATION THROUGH IMPROPER
6 COMMUNICATIONS, THEN YOUR VERDICT MAY BE INFLUENCED BY
7 INACCURATE, INCOMPLETE OR MISLEADING INFORMATION THAT HAS NOT
8 BEEN TESTED BY THE TRIAL PROCESS.

9 EACH OF THE PARTIES IS ENTITLED TO A FAIR TRIAL BY AN
10 IMPARTIAL JURY. AND IF YOU DECIDE THE CASE BASED ON
11 INFORMATION NOT PRESENTED IN COURT, YOU WILL HAVE DENIED THE
12 PARTIES A FAIR TRIAL.

13 REMEMBER, YOU HAVE TAKEN AN OATH TO FOLLOW THE RULES, AND
14 IT IS VERY IMPORTANT THAT YOU FOLLOW THESE RULES.

15 A JUROR WHO VIOLATES THESE RESTRICTIONS JEOPARDIZES THE
16 FAIRNESS OF THESE PROCEEDINGS. IF ANY JUROR IS EXPOSED TO ANY
17 OUTSIDE INFORMATION, PLEASE NOTIFY THE COURT IMMEDIATELY.

18 IF THERE IS ANY NEWS MEDIA ACCOUNT OR COMMENTARY ABOUT THE
19 CASE OR ANYTHING TO DO WITH IT, YOU MUST IGNORE IT. YOU MUST
20 NOT READ, WATCH, OR LISTEN TO ANY NEWS MEDIA ACCOUNT OR
21 COMMENTARY ABOUT THE CASE OR ANYTHING TO DO WITH IT.

22 THE CASE MUST BE DECIDE BY YOU SOLELY AND EXCLUSIVELY ON
23 THE EVIDENCE THAT WILL BE RECEIVED IN THE CASE AND ON MY
24 INSTRUCTIONS AS TO THE LAW THAT APPLIES.

25 IF ANY JUROR IS EXPOSED TO ANY OUTSIDE INFORMATION, PLEASE

11:38AM 1 NOTIFY ME IMMEDIATELY.

11:39AM 2 I URGE YOU TO PAY CLOSE ATTENTION TO THE TRIAL TESTIMONY AS
11:39AM 3 IT IS GIVEN. DURING DELIBERATIONS, YOU WILL NOT HAVE A
11:39AM 4 TRANSCRIPT OF THE TRIAL TESTIMONY.

11:39AM 5 FROM TIME TO TIME DURING THE TRIAL, IT MAY BECOME NECESSARY
11:39AM 6 FOR ME TO TALK WITH THE ATTORNEYS OUT OF THE HEARING OF THE
11:39AM 7 JURY, EITHER BY HAVING A CONFERENCE AT THE BENCH WHEN THE JURY
11:39AM 8 IS PRESENT IN THE COURTROOM, OR BY CALLING A RECESS.

11:39AM 9 PLEASE UNDERSTAND THAT WHILE YOU ARE WAITING, WE ARE
11:39AM 10 WORKING. THE PURPOSE OF THESE CONFERENCES IS NOT TO KEEP
11:39AM 11 RELEVANT INFORMATION FROM YOU, BUT TO DECIDE HOW CERTAIN
11:39AM 12 EVIDENCE IS TO BE TREATED UNDER THE RULES OF EVIDENCE AND TO
11:39AM 13 AVOID CONFUSION AND ERROR.

11:39AM 14 OF COURSE, WE WILL DO WHAT WE CAN TO KEEP THE NUMBER AND
11:39AM 15 LENGTH OF THESE CONFERENCES TO A MINIMUM, BUT I MAY NOT ALWAYS
11:39AM 16 BE ABLE TO GRANT AN ATTORNEY'S REQUEST FOR A CONFERENCE.

11:39AM 17 DO NOT CONSIDER MY GRANTING OR DENYING A REQUEST FOR A
11:39AM 18 CONFERENCE AS ANY INDICATION OF MY OPINION OF THE CASE OR WHAT
11:40AM 19 YOUR VERDICT SHOULD BE.

11:40AM 20 DURING THE TRIAL, YOU MUST KEEP IN MIND THAT COPYRIGHT
11:40AM 21 PROTECTION DOES NOT EXTEND TO ALL THE ELEMENTS OF A COPYRIGHTED
11:40AM 22 WORK. ELEMENTS TO WHICH COPYRIGHT PROTECTION EXTENDS ARE
11:40AM 23 CALLED PROTECTED MATTER AND OTHER ELEMENTS ARE UNPROTECTED
11:40AM 24 MATTER.

11:40AM 25 UNPROTECTED MATTER IS NOT ENTITLED TO COPYRIGHT PROTECTION,

11:40AM 1 AND, THEREFORE, MAY BE COPIED BY ANOTHER AUTHOR.

11:40AM 2 IN THIS CASE, CISCO, DOES NOT ASSERT THE FOLLOWING AS
11:40AM 3 PROTECTED MATTER.

11:40AM 4 1. SINGLE-WORD COMMANDS.

11:40AM 5 2. ISOLATED WORDS IN CISCO'S MULTIWORD COMMAND
11:40AM 6 EXPRESSIONS.

11:40AM 7 3. IDEAS, AS OPPOSED TO THE PARTICULAR EXPRESSION OF AN
11:40AM 8 IDEA, INCLUDING THE IDEA OF A HIERARCHY, THE IDEA OF MAKING
11:40AM 9 CERTAIN COMMANDS AVAILABLE ONLY IN CERTAIN MODES, THE IDEA OF
11:41AM 10 AN INTERACTIVE HELP SYSTEM, THE IDEA OF USING A TEXT-BASED USER
11:41AM 11 INTERFACE RATHER THAN A GRAPHICAL INTERFACE. THE IDEA OF USING
11:41AM 12 MULTIWORD COMMANDS TO MANAGE OR CONFIGURE A DEVICE OR THE IDEA
11:41AM 13 OF HAVING A MINIMUM SYNTACTIC LENGTH.

11:41AM 14 4. USE OF A QUESTION MARK TO CALL UP HELP DESCRIPTIONS.

11:41AM 15 5. TAB COMPLETIONS.

11:41AM 16 6. COMMAND PREFIXES THAT THE USER INTERFACE AUTO
11:41AM 17 COMPLETES.

11:41AM 18 7. IDEA MODE INDICATORS AND INDIVIDUAL PROMPTS, OR

11:41AM 19 8. THE FUNCTION OF ANY ASSERTED FEATURE AS OPPOSED TO
11:41AM 20 CISCO'S EXPRESSION OR PORTIONS OF MULTIWORD COMMAND EXPRESSIONS
11:41AM 21 THAT YOU FIND WERE DICTATED BY FUNCTIONAL DEMAND.

11:41AM 22 I WILL INSTRUCT YOU ABOUT THE TYPES OF PROTECTED AND
11:41AM 23 UNPROTECTED MATTER IN GREATER DETAIL AT THE END OF THE TRIAL.

11:42AM 24 EVIDENCE MAY BE DIRECT OR CIRCUMSTANTIAL. DIRECT EVIDENCE
11:42AM 25 IS DIRECT PROOF OF A FACT SUCH AS TESTIMONY BY A WITNESS ABOUT

11:42AM 1 WHAT THAT WITNESS PERSONALLY SAW OR HEARD OR DID.

11:42AM 2 CIRCUMSTANTIAL EVIDENCE IS PROOF OF ONE OR MORE FACTS FROM
11:42AM 3 WHICH YOU COULD FIND ANOTHER FACT.

11:42AM 4 YOU SHOULD CONSIDER BOTH KINDS OF EVIDENCE. THE LAW MAKES
11:42AM 5 NO DISTINCTION BETWEEN THE WEIGHT TO BE GIVEN TO EITHER DIRECT
11:42AM 6 OR CIRCUMSTANTIAL EVIDENCE. IT IS FOR YOU TO DECIDE HOW MUCH
11:42AM 7 WEIGHT TO GIVE TO ANY EVIDENCE.

11:42AM 8 BY WAY OF EXAMPLE, IF YOU WAKE UP IN THE MORNING AND SEE
11:42AM 9 THAT THE SIDEWALK IS WET, YOU MAY FIND FROM THAT FACT THAT IT
11:42AM 10 RAINED DURING THE NIGHT. HOWEVER, OTHER EVIDENCE, SUCH AS A
11:42AM 11 TURNED ON GARDEN HOSE, MAY PROVIDE A DIFFERENT EXPLANATION FOR
11:42AM 12 THE PRESENCE OF WATER ON THE SIDEWALK.

11:42AM 13 THEREFORE, BEFORE YOU DECIDE THAT A FACT HAS BEEN PROVED BY
11:42AM 14 CIRCUMSTANTIAL EVIDENCE, YOU MUST CONSIDER ALL THE EVIDENCE IN
11:43AM 15 LIGHT OF REASON, EXPERIENCE, AND COMMON SENSE.

11:43AM 16 THE PARTIES HAVE AGREED TO CERTAIN FACTS THAT WILL BE READ
11:43AM 17 TO YOU. YOU MUST THEREFORE TREAT THESE FACT AS HAVING BEEN
11:43AM 18 PROVED.

11:43AM 19 IN DECIDING THE FACTS IN THIS CASE, YOU MAY HAVE TO DECIDE
11:43AM 20 WHICH TESTIMONY TO BELIEVE AND WHICH TESTIMONY NOT TO BELIEVE.
11:43AM 21 YOU MAY BELIEVE EVERYTHING A WITNESS SAYS OR PART OF IT OR NONE
11:43AM 22 OF IT.

11:43AM 23 IN CONSIDERING THE TESTIMONY OF ANY WITNESS, YOU MAY TAKE
11:43AM 24 INTO ACCOUNT THE OPPORTUNITY AND ABILITY OF THE WITNESS TO SEE
11:43AM 25 OR HEAR OR KNOW THE THINGS TESTIFIED TO;

11:43AM 1 THE WITNESS'S MEMORY;

11:43AM 2 THE WITNESS'S MANNER WHILE TESTIFYING;

11:43AM 3 THE WITNESS'S INTEREST IN THE OUTCOME OF THE CASE, IF ANY;

11:43AM 4 THE WITNESS'S BIAS OR PREJUDICE, IF ANY;

11:43AM 5 WHETHER THE OTHER EVIDENCE CONTRADICTED THE WITNESS'S
11:43AM 6 TESTIMONY;

11:44AM 7 THE REASONABLENESS OF THE WITNESS'S TESTIMONY IN LIGHT OF
11:44AM 8 ALL THE EVIDENCE; AND,

11:44AM 9 ANY OTHER FACTOR THAT BEARS ON BELIEVABILITY.

11:44AM 10 SOMETIMES A WITNESS MAY SAY SOMETHING THAT IS NOT
11:44AM 11 CONSISTENT WITH SOMETHING ELSE HE OR SHE SAID. SOMETIMES
11:44AM 12 DIFFERENT WITNESSES WILL GIVE DIFFERENT VERSIONS OF WHAT
11:44AM 13 HAPPENED. PEOPLE OFTEN FORGET THINGS OR MAKE MISTAKES IN WHAT
11:44AM 14 THEY REMEMBER. ALSO, TWO PEOPLE MAY SEE THE SAME EVENT BUT
11:44AM 15 REMEMBER IT DIFFERENTLY.

11:44AM 16 YOU MAY CONSIDER THESE DIFFERENCES, BUT DO NOT DECIDE THE
11:44AM 17 TESTIMONY IS UNTRUE JUST BECAUSE IT DIFFERS FROM OTHER
11:44AM 18 TESTIMONY. HOWEVER, IF YOU DECIDE THAT A WITNESS HAS
11:44AM 19 DELIBERATELY TESTIFIED UNTRUTHFULLY ABOUT SOMETHING IMPORTANT,
11:44AM 20 YOU MAY CHOOSE NOT TO BELIEVE ANYTHING THAT WITNESS SAID.

11:44AM 21 ON THE OTHER HAND, IF YOU THINK THE WITNESS TESTIFIED
11:44AM 22 UNTRUTHFULLY ABOUT SOME THINGS BUT TOLD THE TRUTH ABOUT OTHERS,
11:44AM 23 YOU MAY ACCEPT THE PART YOU THINK IS TRUE AND IGNORE THE REST.

11:45AM 24 THE WEIGHT OF THE EVIDENCE AS TO A FACT DOES NOT
11:45AM 25 NECESSARILY DEPEND ON THE NUMBER OF WITNESSES WHO TESTIFY.

11:45AM 1 WHAT IS IMPORTANT IS HOW BELIEVABLE THE WITNESSES WERE AND HOW
11:45AM 2 MUCH WEIGHT YOU THINK THEIR TESTIMONY DESERVES.

11:45AM 3 SOME WITNESSES, BECAUSE OF EDUCATION OR EXPERIENCE, ARE
11:45AM 4 PERMITTED TO STATE OPINIONS AND THE REASONS FOR THOSE OPINIONS.

11:45AM 5 SUCH OPINION TESTIMONY SHOULD BE JUDGED LIKE ANY OTHER
11:45AM 6 TESTIMONY. YOU MAY ACCEPT IT OR REJECT IT AND GIVE IT AS MUCH
11:45AM 7 WEIGHT AS YOU THINK IT DESERVES, CONSIDERING THE WITNESS'S
11:45AM 8 EDUCATION AND EXPERIENCE, THE REASONS GIVEN FOR THE OPINION AND
11:45AM 9 ALL OF THE OTHER EVIDENCE IN THE CASE.

11:45AM 10 A DEPOSITION IS A SWORN TESTIMONY OF A WITNESS TAKEN BEFORE
11:45AM 11 TRIAL. THE WITNESS IS PLACED UNDER OATH TO TELL THE TRUTH AND
11:45AM 12 LAWYERS FOR EACH PARTY MAY ASK QUESTIONS. THE QUESTIONS AND
11:45AM 13 ANSWERS ARE RECORDED. WHEN A PERSON IS UNAVAILABLE TO TESTIFY
11:46AM 14 AT TRIAL, AND IN CERTAIN OTHER SITUATIONS, THE DEPOSITION OF
11:46AM 15 THAT PERSON MAY BE USED AT THE TRIAL. INsofar AS POSSIBLE, YOU
11:46AM 16 SHOULD CONSIDER DEPOSITION TESTIMONY PRESENTED TO YOU IN COURT
11:46AM 17 IN LIEU OF LIVE TESTIMONY THE SAME WAY AS IF THE WITNESS HAD
11:46AM 18 BEEN PRESENT TO TESTIFY.

11:46AM 19 WHEN A PARTY HAS THE BURDEN OF PROOF ON ANY CLAIM OR
11:46AM 20 AFFIRMATIVE DEFENSE BY A PREPONDERANCE OF THE EVIDENCE, IT
11:46AM 21 MEANS YOU MUST BE PERSUADED BY THE EVIDENCE THAT THE CLAIM OR
11:46AM 22 AFFIRMATIVE DEFENSE IS MORE PROBABLY TRUE THAN NOT TRUE.

11:46AM 23 PREPONDERANCE OF THE EVIDENCE BASICALLY MEANS MORE LIKELY
11:46AM 24 THAN NOT. YOU SHOULD BASE YOUR DECISION ON ALL THE EVIDENCE
11:46AM 25 REGARDLESS OF WHICH PARTY PRESENTED IT.

11:46AM 1 IN THIS CASE -- I'M SORRY. THIS CASE ALSO INVOLVES A
11:46AM 2 DISPUTE RELATING TO A UNITED STATES PATENT. BEFORE SUMMARIZING
11:47AM 3 THE POSITIONS OF THE PARTIES AND THE LEGAL ISSUES INVOLVED IN
11:47AM 4 THE DISPUTE, LET ME TAKE A MOMENT TO EXPLAIN WHAT A PATENT IS
11:47AM 5 AND HOW ONE IS OBTAINED.

11:47AM 6 PATENTS ARE GRANTED BY THE UNITED STATES PATENT AND
11:47AM 7 TRADEMARK OFFICE, SOMETIMES CALLED THE PTO. THE PROCESS OF
11:47AM 8 OBTAINING A PATENT IS CALLED PATENT PROSECUTION. A VALID
11:47AM 9 UNITED STATES PATENT GIVES THE PATENT OWNER THE RIGHT TO
11:47AM 10 PREVENT OTHERS FROM MAKING, USING, OFFERING TO SELL, OR SELLING
11:47AM 11 THE PATENTED INVENTION WITHIN THE UNITED STATES OR FROM
11:47AM 12 IMPORTING IT INTO THE UNITED STATES DURING THE TERM OF THE
11:47AM 13 PATENT WITHOUT THE PATENT HOLDER'S PERMISSION.

11:47AM 14 A VIOLATION OF A PATENT OWNER'S RIGHTS IS CALLED
11:47AM 15 INFRINGEMENT. THE PATENT OWNER MAY TRY TO ENFORCE A PATENT
11:47AM 16 AGAINST PERSONS BELIEVED TO BE INFRINGERS BY A LAWSUIT FILED IN
11:47AM 17 FEDERAL COURT. TO OBTAIN A PATENT, ONE MUST FILE AN
11:48AM 18 APPLICATION WITH THE PTO.

11:48AM 19 THE PTO IS AN AGENCY OF THE FEDERAL GOVERNMENT AND EMPLOYS
11:48AM 20 TRAINED EXAMINERS WHO REVIEW APPLICATIONS FOR PATENTS. THE
11:48AM 21 APPLICATION INCLUDES WHAT IS CALLED A SPECIFICATION WHICH MUST
11:48AM 22 CONTAIN A WRITTEN DESCRIPTION OF THE CLAIMED INVENTION TELLING
11:48AM 23 WHAT THE INVENTION IS, HOW IT WORKS, HOW TO MAKE IT, AND HOW TO
11:48AM 24 USE IT, SO OTHERS SKILLED IN THE FIELD WILL KNOW HOW TO MAKE OR
11:48AM 25 USE IT.

1 THE SPECIFICATION CONCLUDES WITH ONE OR MORE NUMBERED
2 SENTENCES. THESE ARE THE PATENT CLAIMS. WHEN A PATENT IS
3 EVENTUALLY GRANTED BY THE PTO, THE CLAIMS DEFINE THE BOUNDARIES
4 OF ITS PROTECTION AND GIVE NOTICE TO THE PUBLIC OF THOSE
5 BOUNDARIES.

6 AFTER THE APPLICATION -- AFTER THE APPLICANT FILES THE
7 APPLICATION, A PTO PATENT EXAMINER REVIEWS THE PATENT
8 APPLICATION TO DETERMINE WHETHER THE CLAIMS ARE PATENTABLE AND
9 WHETHER THE SPECIFICATION ADEQUATELY DESCRIBES THE INVENTION
10 CLAIMED.

11 IN EXAMINING A PATENT APPLICATION, THE PATENT EXAMINER
12 REVIEWS RECORDS AVAILABLE TO THE PTO FOR WHAT IS REFERRED TO AS
13 PRIOR ART. THE EXAMINER ALSO WILL REVIEW PRIOR ART IF IT IS
14 SUBMITTED TO THE PTO BY THE APPLICANT.

15 IN GENERAL, PRIOR ART INCLUDES THINGS THAT EXISTED BEFORE
16 THE CLAIMED INVENTION THAT WERE PUBLICLY KNOWN OR USED IN A
17 PUBLICLY ACCESSIBLE WAY IN THIS COUNTRY OR THAT WERE PATENTED
18 OR DESCRIBED IN A PUBLICATION IN ANY COUNTRY.

19 THE EXAMINER CONSIDERS, AMONG OTHER THINGS, WHETHER EACH
20 CLAIM DEFINES AN INVENTION THAT IS NEW, USEFUL, AND NOT OBVIOUS
21 IN VIEW OF THE PRIOR ART.

22 A PATENT LISTS THE PRIOR ART THAT THE EXAMINER CONSIDERED.
23 THIS LIST IS CALLED THE CITED REFERENCES.

24 AFTER THE PRIOR ART SEARCH AND EXAMINATION OF THE
25 APPLICATION, THE PATENT EXAMINER THEN INFORMS THE APPLICANT IN

11:50AM 1 WRITING WHAT THE EXAMINER HAS FOUND AND WHETHER ANY CLAIM IS
11:50AM 2 PATENTABLE AND THUS WILL BE ALLOWED.

11:50AM 3 THIS WRITING FROM THE PATENT EXAMINER IS CALLED AN OFFICE
11:50AM 4 ACTION. IF THE EXAMINER REJECTS THE CLAIMS, THE APPLICANT THEN
11:50AM 5 RESPONDS AND SOMETIMES CHANGES THE CLAIMS OR SUBMITS NEW
11:50AM 6 CLAIMS.

11:50AM 7 THIS PROCESS, WHICH TAKES PLACE ONLY BETWEEN THE EXAMINER
11:50AM 8 AND THE PATENT APPLICANT, MAY GO BACK AND FORTH FOR SOME TIME
11:50AM 9 UNTIL THE EXAMINER IS SATISFIED THAT THE APPLICANT AND CLAIMS
11:50AM 10 MEET THE REQUIREMENTS FOR A PATENT.

11:50AM 11 THE PAPERS GENERATED DURING THIS TIME OF COMMUNICATING BACK
11:50AM 12 AND FORTH BETWEEN THE PATENT EXAMINER AND THE APPLICANT MAKE UP
11:50AM 13 WHAT IS CALLED THE PROSECUTION HISTORY. ALL OF THIS MATERIAL
11:50AM 14 BECOMES AVAILABLE TO THE PUBLIC NO LATER THAN THE DATE WHEN THE
11:50AM 15 PATENT ISSUES.

11:50AM 16 THE FACT THAT THE PTO GRANTS A PATENT DOES NOT NECESSARILY
11:50AM 17 MEAN THAT ANY INVENTION CLAIMED IN THE PATENT, IN FACT,
11:50AM 18 DESERVES THE PROTECTION OF A PATENT.

11:51AM 19 FOR EXAMPLE, THE PTO MAY NOT HAVE HAD AVAILABLE TO IT ALL
11:51AM 20 THE INFORMATION THAT WILL BE PRESENTED TO YOU.

11:51AM 21 I WILL NOW INSTRUCT YOU ON CISCO'S PATENT CLAIM. I WILL
11:51AM 22 FIRST GIVE YOU A SUMMARY OF EACH SIDE'S CONTENTIONS IN THIS
11:51AM 23 CASE FOR THE PATENT CLAIM. I WILL THEN TELL YOU WHAT EACH SIDE
11:51AM 24 MUST PROVE TO WIN ON EACH OF ITS CONTENTIONS.

11:51AM 25 CISCO SEEKS MONEY DAMAGES FROM ARISTA FOR ALLEGEDLY

11:51AM 1 INFRINGING THE '526 PATENT BY MAKING, IMPORTING, USING, SELLING
11:51AM 2 AND/OR OFFERING FOR SALE PRODUCTS AND SERVICES THAT CISCO
11:51AM 3 ARGUES ARE COVERED BY CLAIMS 1 AND 14 OF THE '526 PATENT.

11:51AM 4 THESE ARE REFERRED TO AS THE ASSERTED CLAIMS OF THE '526
11:51AM 5 PATENT.

11:51AM 6 CISCO ALSO ARGUES THAT ARISTA HAS ACTIVELY INDUCED
11:51AM 7 INFRINGEMENT OF THESE CLAIMS OF THE '526 PATENT BY OTHERS AND
11:51AM 8 CONTRIBUTED TO INFRINGEMENT OF THESE CLAIMS OF THE '526 PATENT
11:52AM 9 BY OTHERS.

11:52AM 10 THE PRODUCTS AND SERVICES THAT ARE ALLEGED TO INFRINGE ARE
11:52AM 11 ARISTA SWITCHES AND ASSOCIATED PRODUCTS AND SERVICES THAT
11:52AM 12 INCORPORATE EOS, EOS+, AND VEOS NETWORK OPERATING SYSTEMS.

11:52AM 13 ARISTA DENIES THAT IT HAS INFRINGED THE ASSERTED CLAIMS OF
11:52AM 14 THE PATENT. YOUR JOB IS TO DECIDE WHETHER THE ASSERTED CLAIMS
11:52AM 15 OF THE '526 PATENT HAVE BEEN INFRINGED. IF YOU DECIDE THAT ANY
11:52AM 16 CLAIM OF THE PATENT HAS BEEN INFRINGED, YOU WILL THEN NEED TO
11:52AM 17 DECIDE ANY MONEY DAMAGE TO BE AWARDED TO CISCO TO COMPENSATE IT
11:52AM 18 FOR THE INFRINGEMENT.

11:52AM 19 YOU WILL ALSO NEED TO MAKE A FINDING AS TO WHETHER THE
11:52AM 20 INFRINGEMENT WAS WILLFUL. IF YOU DECIDE THAT ANY INFRINGEMENT
11:52AM 21 WAS WILLFUL, THAT DECISION SHOULD NOT AFFECT ANY DAMAGE AWARD
11:52AM 22 YOU MAKE.

11:52AM 23 I WILL TAKE WILLFULNESS INTO ACCOUNT LATER.

11:52AM 24 THE PLAINTIFF, CISCO, CLAIMS THAT ARISTA COMMITTED
11:53AM 25 COPYRIGHT INFRINGEMENT BY COPYING CISCO'S ORIGINAL WORKS.

ARISTA DENIES INFRINGING CISCO'S COPYRIGHTED WORKS AND ASSERTED DEFENSES.

TO HELP YOU UNDERSTAND THE EVIDENCE IN THIS CASE, I WILL EXPLAIN SOME OF THE LEGAL TERMS YOU WILL HEAR DURING THE TRIAL.

COPYRIGHT IS THE EXCLUSIVE RIGHT TO COPY. THIS RIGHT TO COPY INCLUDES THE EXCLUSIVE RIGHT TO OR TO AUTHORIZE OTHERS TO:

1. REPRODUCE THE COPYRIGHTED WORK AND COPIES.
2. RECAST OR ADAPT THE WORK, THAT IS PREPARE, DERIVATIVE WORKS BASED UPON THE COPYRIGHTED WORK.
3. DISTRIBUTE COPIES OF THE COPYRIGHTED WORK TO THE PUBLIC BY SALE OR OTHER TRANSFER OF OWNERSHIP; AND,
4. DISPLAY PUBLICLY, A COPYRIGHTED WORK.

IT IS THE OWNER OF A COPYRIGHT WHO MAY EXERCISE THESE EXCLUSIVE RIGHTS. THE TERM "OWNER" INCLUDES THE AUTHOR OF THE WORK. AN OWNER MAY ENFORCE THESE RIGHTS TO EXCLUDE IN AN ACTION FOR COPYRIGHT INFRINGEMENT.

A COPYRIGHTED WORK CAN BE A LITERARY WORK, MUSICAL WORK, DRAMATIC WORK, PANTOMIME, CHOREOGRAPHIC WORK, PICTORIAL WORK, GRAPHIC WORK, SCULPTURAL WORK, MOTION PICTURE, AUDIOVISUAL WORK, SOUND RECORDING, ARCHITECTURAL WORK, COMPUTER PROGRAM OR USER INTERFACE.

FACTS, IDEAS, PROCEDURES, PROCESSES, SYSTEMS, METHODS OF OPERATION, CONCEPTS, PRINCIPLES, OR DISCOVERIES CANNOT THEMSELVES BE COPYRIGHTED.

THE COPYRIGHTED WORK MUST BE ORIGINAL, AND ORIGINAL WORK

11:54AM 1 THAT CLOSELY RESEMBLES OTHER WORKS CAN BE COPYRIGHTED, SO LONG
11:54AM 2 AS THE SIMILARITY BETWEEN THE TWO WORKS IS NOT THE RESULT OF
11:54AM 3 COPYING.

11:54AM 4 IN THIS CASE, CISCO CONTENDS THAT ARISTA HAS INFRINGED
11:55AM 5 CISCO'S USER INTERFACES AND ASSOCIATED TECHNICAL MANUALS.

11:55AM 6 CISCO HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE
11:55AM 7 EVIDENCE THAT, ONE, CISCO IS THE OWNER OF VALID COPYRIGHTS;
11:55AM 8 AND, TWO, ARISTA COPIED ORIGINAL EXPRESSION FROM THE
11:55AM 9 COPYRIGHTED WORKS.

11:55AM 10 CISCO MAY PROVE THAT ARISTA COPIED CISCO'S COPYRIGHTED
11:55AM 11 WORKS EITHER THROUGH DIRECT EVIDENCE THAT ARISTA COPIED CISCO'S
11:55AM 12 WORKS OR THROUGH CIRCUMSTANTIAL EVIDENCE THAT ARISTA HAD ACCESS
11:55AM 13 TO CISCO'S COPYRIGHTED WORKS AND THAT THERE IS SUBSTANTIAL
11:55AM 14 SIMILARITY BETWEEN THE ASSERTED ELEMENTS OF CISCO'S WORKS AND
11:55AM 15 THE ACCUSED ELEMENTS OF ARISTA'S WORK.

11:55AM 16 ARISTA CONTENDS THAT IT DID NOT INFRINGE CISCO'S COPYRIGHT.
11:55AM 17 ARISTA ALSO ASSERTS AFFIRMATIVE DEFENSES. ARISTA MUST PROVE
11:55AM 18 ITS AFFIRMATIVE DEFENSES BY A PREPONDERANCE OF THE EVIDENCE.

11:55AM 19 ARISTA ASSERTS THE AFFIRMATIVE DEFENSE OF MERGER, WHICH
11:56AM 20 REQUIRES ARISTA TO PROVE THAT AT THE TIME CISCO CREATED THE
11:56AM 21 COPYRIGHTED WORK, THERE WAS ONLY ONE OR A VERY FEW WAYS TO
11:56AM 22 EXPRESS THE IDEA UNDERLYING THE ASSERTED ELEMENTS.

11:56AM 23 ARISTA ALSO ASSERTS THE AFFIRMATIVE DEFENSE OF SCENES A
11:56AM 24 FAIRE, WHICH REQUIRES ARISTA TO PROVE THAT AT THE TIME CISCO
11:56AM 25 CREATED THE COPYRIGHTED WORK, ETERNAL FACTORS OTHER THAN

1 CISCO'S CREATIVITY DICTATED THAT CISCO SELECT AND ARRANGE ITS
2 FEATURES IN THE MANNER IT DID.

3 FINALLY, ARISTA ASSERTS THE AFFIRMATIVE DEFENSE OF FAIR
4 USE. ONE WHO IS NOT THE OWNER OF A COPYRIGHT MAY USE THE
5 COPYRIGHTED WORK IN A REASONABLE WAY UNDER CERTAIN
6 CIRCUMSTANCES WITHOUT THE CONSENT OF THE COPYRIGHT OWNER.

7 I WILL EXPLAIN THESE CIRCUMSTANCES TO YOU FURTHER AT THE
8 END OF THE TRIAL. THE OWNER OF A COPYRIGHT CANNOT PREVENT
9 OTHERS FROM MAKING A FAIR USE OF THE OWNER'S COPYRIGHTED WORK.

10 IN DETERMINING WHETHER THE USE MADE OF THE WORK WAS FAIR,
11 YOU MAY CONSIDER THE FOLLOWING FACTORS.

12 1. THE PURPOSE AND CHARGE OF THE USE, INCLUDING WHETHER
13 THE USE IS OF A COMMERCIAL NATURE OR IS FOR NONPROFIT
14 EDUCATIONAL PURPOSES;

15 2. THE NATURE OF THE COPYRIGHTED WORK;

16 3. THE AMOUNT AND SUBSTANTIALITY OF THE PORTION USED IN
17 RELATION TO THE COPYRIGHTED WORK AS A WHOLE; AND,

18 4. THE EFFECT OF THE USE UPON THE POTENTIAL MARKET FOR OR
19 VALUE OF THE COPYRIGHTED WORK.

20 THESE FACTORS ARE NOT EXCLUSIVE.

21 ALL RIGHT. I GUESS I DIDN'T HAVE ANY TIME LEFT FOR OPENING
22 STATEMENTS.

23 THOSE ARE THE INITIAL INSTRUCTIONS. AND AS I SAID, YOU
24 WILL GET COPIES OF THOSE. I'M NOT GOING TO START NOW BECAUSE I
25 THINK EVERYONE PROBABLY WANTS THEIR NORMAL LUNCH BREAK.

11:57AM 1 LADIES AND GENTLEMEN, WE ALWAYS TAKE AN HOUR FOR LUNCH.
11:57AM 2 EVERY ONCE IN A WHILE I ADD A FEW MINUTES BUT NOT VERY OFTEN.
11:58AM 3 SO I'M GOING TO HAVE YOU TAKE AN HOUR LUNCH. WE WILL COME BACK
11:58AM 4 AT 1:00 AND THEN I WILL TURN TO THOSE OPENING STATEMENTS
11:58AM 5 WITHOUT INTERRUPTIONS.
11:58AM 6 SO ENJOY YOUR LUNCH, AND I WILL SEE YOU AFTER LUNCH.
11:58AM 7 (WHEREUPON A RECESS WAS TAKEN.)

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AFTERNOON SESSION

(WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD IN THE
PRESENCE OF THE JURY:)

THE COURT: WE ARE BACK ON THE RECORD. ALL OF OUR
COUNSEL ARE HERE AND ALL OF OUR JURORS. GOOD AFTERNOON, LADIES
AND GENTLEMEN.

ALL RIGHT. WE ARE GOING TO GET READY FOR, AND GO RIGHT
INTO THE OPENING STATEMENTS.

MR. NELSON, WOULD YOU LIKE TO GIVE YOUR OPENING STATEMENT?

MR. NELSON: YES, THANK YOU, YOUR HONOR.

THE COURT: GO AHEAD, PLEASE.

OPENING STATEMENT BY MR. NELSON

MR. NELSON: GOOD AFTERNOON, EVERYBODY.

THANKS FOR COMING BACK. AND YOU KNOW, I KNOW IT'S PROBABLY
NOT, WHEN YOU CAME IN THIS MORNING, THINKING, YEAH, THIS IS
WHAT I WANT TO BE DOING WITH THE NEXT COUPLE OF WEEKS OF MY
LIFE.

I UNDERSTAND THAT. BUT IT REALLY IS IMPORTANT TO US. AS
HER HONOR SAID, IT'S IMPORTANT TO THE PROCESS, IT'S IMPORTANT
TO MY CLIENT. I'M SURE IT'S IMPORTANT TO ARISTA AND THE
LAWYERS THERE.

SO WE DO APPRECIATE YOU TAKING THE TIME AND LISTENING
BECAUSE IT IS A WAY TO RESOLVE THIS DISPUTE. SO THANK YOU FOR

01:12PM 1 THAT.

01:12PM 2 NOW WITH THAT, I WANT TO GET GOING, AND AS HER HONOR SAID,
01:12PM 3 IT'S MY OPPORTUNITY TO GIVE YOU AN OUTLINE OF WHAT I THINK THE
01:12PM 4 EVIDENCE IS GOING TO BE IN THE CASE.

01:12PM 5 NOW, OBVIOUSLY I CAN'T GO THROUGH EVERYTHING IN THE
01:12PM 6 45 MINUTES I HAVE. BUT I WANT TO GIVE YOU THE OUTLINE. AND I
01:12PM 7 PREPARED A PRESENTATION TO BEGIN TO SHOW YOU WHAT THE CASE IS
01:12PM 8 GOING TO BE FROM CISCO'S PERSPECTIVE.

01:12PM 9 NOW, I WANT TO TALK FIRST THAT HER HONOR HAD MENTIONED IN
01:12PM 10 SOME OF THE PRELIMINARY INSTRUCTIONS THAT THE CASE IS ABOUT
01:12PM 11 COPYRIGHT WITH A USER INTERFACE, AND THERE'S PATENT, A PATENT
01:12PM 12 CLAIM AS WELL.

01:12PM 13 LET ME TALK ABOUT THE USER INTERFACE, THE COPYRIGHT FIRST.

01:12PM 14 AND JUST BEFORE I GET INTO IT, THE USER INTERFACE, YOU
01:12PM 15 KNOW, THIS IS A PARTICULAR TYPE, AND I WILL TELL YOU MORE ABOUT
01:12PM 16 IT, AND YOU WILL HEAR ABOUT IT, IT'S CALLED A COMMAND LINE
01:12PM 17 INTERFACE, MEANING TEXT LINES, WORDS THAT GO BACK AND FORTH.
01:13PM 18 YOU MIGHT BE FAMILIAR WITH THE GRAPHIC USER INTERFACE THAT'S ON
01:13PM 19 YOUR PHONE OR COMPUTERS.

01:13PM 20 SO HERE IT'S THE SAME IN THE SENSE THAT IT'S A USER
01:13PM 21 INTERFACE, THE WAY THE USERS IN THE MACHINE WOULD INTERACT WITH
01:13PM 22 IT.

01:13PM 23 BUT HERE I'M GOING TO BE TALKING ABOUT, AND I WILL TELL YOU
01:13PM 24 MORE ABOUT, THIS THE COMMAND LINE INTERFACE.

01:13PM 25 SO USUALLY IN A COPYRIGHT CASE, ONE OF THE BIG FIGHTS IS

01:13PM 1 ABOUT WHETHER SOMETHING HAS BEEN COPIED, RIGHT?

01:13PM 2 I DON'T THINK YOU ARE GOING TO FIND THAT THAT'S A BIG FIGHT
01:13PM 3 HERE. IN FACT, WE ARE GOING TO SHOW YOU EVIDENCE FROM ARISTA'S
01:13PM 4 OWN FOLKS THAT THEY DID COPY, THEY SET OUT TO COPY THIS, THEY
01:13PM 5 DID IT ON PURPOSE, RIGHT.

01:13PM 6 AND HERE I HAVE -- THIS IS -- I HAVE LITTLE EXHIBIT NUMBERS
01:13PM 7 YOU WILL SEE ON THERE. I DON'T KNOW IF YOU HAVE JUROR
01:13PM 8 NOTEBOOKS YET, BUT AS I GO THROUGH, THESE EXHIBIT NUMBERS I
01:13PM 9 BELIEVE ARE THE TRIAL EXHIBIT NUMBERS THAT YOU ARE GOING TO
01:14PM 10 SEE.

01:14PM 11 SO AT TIMES YOU MAY WANT TO GO AHEAD AND WRITE THOSE DOWN
01:14PM 12 BECAUSE WE WILL BE COMING BACK TO THOSE DURING THE TRIAL AS THE
01:14PM 13 EVIDENCE IS ADMITTED.

01:14PM 14 BUT YOU WILL SEE HERE FROM MR. DUDA, YOU ARE GOING TO HEAR
01:14PM 15 FROM HIM ON THE STAND, HE WILL TESTIFY IN THIS CASE, HE'S
01:14PM 16 ARISTA'S CHIEF TECHNOLOGY OFFICER, BASICALLY THE TOP ENGINEER,
01:14PM 17 HIGHEST RANKING ENGINEER AT THE COMPANY.

01:14PM 18 AND THIS WAS A STATEMENT TO THE PUBLIC SAYING WE ACTUALLY
01:14PM 19 COPIED IT SLAVISHLY, RIGHT. AND TELLS US WHAT THAT MEANS.
01:14PM 20 EVEN THE PARTS THEY THOUGHT WERE SILLY, THEY COPIED. RIGHT?
01:14PM 21 AND THIS IS WITH RESPECT TO THAT USER INTERFACE THAT I TALKED
01:14PM 22 ABOUT.

01:14PM 23 SO THIS IS NOT REALLY GOING TO BE IN DISPUTE. IN FACT,
01:14PM 24 EVEN DURING THIS CASE, AND I BELIEVE WHEN MR. DUDA GETS UP ON
01:14PM 25 THE STAND HE WILL CONFIRM THIS, THAT THOSE STATEMENTS HE MADE

01:14PM 1 ABOUT SLAVISHLY COPYING THE CLI COMMANDS, THIS COMMAND-LINE
01:14PM 2 INTERFACE, USER INTERFACE I TALKED ABOUT, HE MEANT THOSE.
01:14PM 3 THAT'S WHAT HAPPENED.

01:14PM 4 SO YOU MIGHT ASK YOURSELF WHY THAT WAS THE CASE. WELL, YOU
01:15PM 5 KNOW, HERE -- AND THIS IS AN INTERNAL DOCUMENT THAT I HAVE FROM
01:15PM 6 ARISTA, AND YOU ARE GOING TO SEE A NUMBER OF THESE INTERNAL
01:15PM 7 DOCUMENTS. I HIGHLIGHTED SOMETHING FROM HERE.

01:15PM 8 THIS IS FROM MR. ANSHUL SADANA, AND HE'S GOING TO TESTIFY
01:15PM 9 IN THIS CASE. HE'S CURRENTLY ARISTA'S CHIEF CUSTOMER OFFICER.

01:15PM 10 AND HE SAID THAT WE PICKED CISCO IOS -- AND LET ME STOP
01:15PM 11 THERE. THAT'S A REFERENCE TO THE OPERATING SYSTEM. THE USER
01:15PM 12 INTERFACE IS PART OF THAT. SO IN OTHER WORDS, THAT'S THE USER
01:15PM 13 INTERFACE FROM THAT OPERATING SYSTEM, JUST LIKE WITH WINDOWS
01:15PM 14 YOU MIGHT HAVE AN OPERATING SYSTEM THAT OPERATES THE COMPUTER,
01:15PM 15 BUT THE USER INTERFACE IS HOW YOU INTERACT WITH IT.

01:15PM 16 SO SIMILAR SITUATION HERE. WE HAVE PICKED IOS AS THE CLI
01:15PM 17 MODEL FOR OUR PRODUCTS.

01:15PM 18 AND HE GOES ON TO SAY, JUNO, YOU WILL HEAR EVIDENCE ON THE
01:15PM 19 CASE, THAT'S AN OPERATING SYSTEM THAT JUNIPER OFFERS, AND
01:16PM 20 JUNIPER MAKES THESE TYPES OF PRODUCTS TOO, THESE SWITCHES AND
01:16PM 21 ROUTERS THAT ARE GOING TO BE AT ISSUE IN THIS CASE, MAY BE A
01:16PM 22 LOT BETTER, BUT WE DECIDED TO EMBRACE IOS.

01:16PM 23 SO SIMILAR TO THAT STATEMENT THAT WE JUST HEARD FROM
01:16PM 24 MR. DUDA, WE COPIED IT SLAVISHLY. WE USE THIS AS THE MODEL.
01:16PM 25 EVEN THE PARTS THAT PERHAPS WE DIDN'T LIKE SO MUCH, RIGHT?

01:16PM 1 SO I DO NOT THINK THAT WE ARE GOING TO HAVE A SERIOUS
01:16PM 2 DISPUTE AS WE GO THROUGH ABOUT WHETHER THIS USER INTERFACE WAS
01:16PM 3 COPIED.

01:16PM 4 AND HERE, FROM -- ANOTHER STATEMENT. THIS IS AGAIN A
01:16PM 5 PUBLIC STATEMENT FROM MS. ULLAL. SHE WILL TESTIFY AS WELL.
01:16PM 6 THIS IS ARISTA'S CHIEF EXECUTIVE OFFICER OF THE COMPANY. AND
01:16PM 7 SHE SAID, WE HAVE SIMILAR COMMAND-LINE INTERFACES.

01:16PM 8 NOW, THIS IS REFERRING TO THE, YOU WILL SEE THE EVIDENCE
01:16PM 9 WILL SHOW IT'S REFERRING TO THAT CISCO COMMAND-LINE INTERFACE,
01:16PM 10 AN OPERATIONAL LOOK AND FEEL. WHERE WE DON'T HAVE TO INVENT,
01:16PM 11 WE DON'T.

01:16PM 12 WHERE WE DON'T HAVE TO INVENT, WE DON'T.

01:17PM 13 NOW, WHY? AGAIN, WHY? WE TALKED ABOUT THAT A LITTLE LIT,
01:17PM 14 BUT I WANT TO TALK ABOUT THAT A LITTLE BIT MORE.

01:17PM 15 HERE AGAIN IS MR. DUDA IN PUBLIC STATEMENTS. HE TELLS US
01:17PM 16 WHY THIS IS THE CASE. WE WANTED IT TO BE AS SEAMLESS AN
01:17PM 17 EXPERIENCE FOR OUR CUSTOMERS AS POSSIBLE.

01:17PM 18 IN OTHER WORDS, CISCO HAS CUSTOMERS, THEY ARE FAMILIAR WITH
01:17PM 19 THE CISCO USER INTERFACE. THEY LIKE THE CISCO USER INTERFACE.
01:17PM 20 WE WANT THOSE CUSTOMERS. WE WANT IT TO BE A SEAMLESS
01:17PM 21 TRANSITION FOR THEM.

01:17PM 22 NOW, IT ISN'T JUST MR. DUDA THAT SAID THAT. HERE'S
01:17PM 23 MR. SADANA AGAIN. AND WHEN HE GETS UP ON THE STAND, I BELIEVE
01:17PM 24 HE WILL CONFIRM THIS TESTIMONY THAT HE GAVE, WHERE HE SAYS, ARE
01:17PM 25 YOU DENYING, SIR, THAT YOU TOLD ARISTA CUSTOMERS THAT YOUR CLI

01:17PM 1 IS JUST LIKE CISCO'S CLI?

01:17PM 2 I'M NOT DENYING THAT.

01:18PM 3 YOU SAID THAT; CORRECT?

01:18PM 4 NO, YEAH, I SAID THAT.

01:18PM 5 AND THIS IS NOT SOMETHING THAT JUST -- YOU ARE GOING TO SEE

01:18PM 6 THE EVIDENCE IN THIS CASE -- THAT WAS DONE INTERNALLY. THIS IS

01:18PM 7 NOT SOME DISCUSSION THAT THEY JUST HAD IN INTERNAL DOCUMENTS,

01:18PM 8 WE WANT TO DO THIS, THIS IS A GOAL, RIGHT? THIS IS SOMETHING

01:18PM 9 THEY WERE OUT THERE TELLING CUSTOMERS.

01:18PM 10 AND I HAVE HERE AN EXAMPLE OF THAT.

01:18PM 11 AND I THINK, MR. FISHER, WHO YOU ARE GOING TO HEAR HIS NAME

01:18PM 12 A LOT BECAUSE HE'S GOING TO KEEP US IN ORDER IN TERMS OF OUR

01:18PM 13 PRESENTATION TO TRY TO MAKE THE PRESENTATION A BIT MORE

01:18PM 14 SEAMLESS FOR YOU.

01:18PM 15 BUT IF YOU COULD PLAY THIS, MR. FISHER, THE AUDIO FOR THIS.

01:18PM 16 (WHEREUPON AN AUDIO TAPE WAS PLAYED IN OPEN COURT.)

01:18PM 17 MR. NELSON: SO HERE, THIS IS -- AND YOU WILL HEAR

01:18PM 18 FROM MR. LINCOLN DALE. HE'S A FORMER ARISTA DISTINGUISHED

01:19PM 19 ENGINEER. THAT WAS THE GENTLEMAN THAT WAS GIVING THE

01:19PM 20 PRESENTATION THAT YOU HEARD RIGHT HERE.

01:19PM 21 AND THIS WAS A PRESENTATION AT A CONFERENCE TO POTENTIAL

01:19PM 22 CUSTOMERS. THAT'S WHAT THE EVIDENCE IS GOING TO SHOW IN THE

01:19PM 23 CASE.

01:19PM 24 AND YOU WILL SEE, I HAVE A BOX THAT'S HIGHLIGHTED THERE.

01:19PM 25 SOMETHING THERE TELLING THE CUSTOMERS, ARISTA'S CLI COMMANDS,

01:19PM 1 SAME AS CISCO IOS, RIGHT?

01:19PM 2 SO IT WASN'T JUST AN INTERNAL GOAL. IT WASN'T JUST AN
01:19PM 3 INTERNAL STATEMENT. IT WAS ACTUALLY SOMETHING THAT THEY WENT
01:19PM 4 OUT THERE AND MARKETED TO CUSTOMERS. HEY, WE'RE THE SAME AS
01:19PM 5 CISCO IOS. WE HAVE THE SAME COMMAND-LINE INTERFACE.

01:19PM 6 AND, IN FACT, YOU WILL SEE THAT THEY TALK ABOUT AN INDUSTRY
01:19PM 7 STANDARD. AND I WILL TALK ABOUT THIS A BIT MORE. THAT'S GOING
01:19PM 8 TO COME UP. BECAUSE YOU ARE GOING TO HEAR AND YOU ARE GOING TO
01:19PM 9 SEE IN SOME DOCUMENTS REFERENCES TO INDUSTRY STANDARD.

01:19PM 10 BUT DON'T BE CONFUSED. WE KNOW WHAT MR. DALE SAID WHEN HE
01:19PM 11 USED THIS TERM, WHAT HE MEANT BY THAT. HE SAYS RIGHT HERE,
01:19PM 12 THAT'S MY JOKE FOR SAYING IT'S THE SAME AS IOS. IN OTHER
01:20PM 13 WORDS, THE SAME AS CISCO.

01:20PM 14 AND HE GOES FURTHER TO SAY WHY THAT'S IMPORTANT HERE.
01:20PM 15 CATALYST OR NEXUS, YOU ARE GOING TO HEAR THE EVIDENCE IN THE
01:20PM 16 CASE, THOSE ARE CISCO PRODUCTS. IN OTHER WORDS, COMPETING
01:20PM 17 PRODUCTS WITH ARISTA, NAMES OF SWITCHES OUT THERE.

01:20PM 18 AND YOU CAN TAKE THE CONFIG OFF. IN OTHER WORDS, HOW
01:20PM 19 YOU'VE SET UP THAT SWITCH, HOW YOU'VE CONFIGURED IT IN THE
01:20PM 20 NETWORK, AND YOU CAN APPLY IT TO THE ARISTA PRODUCTS IN EXACTLY
01:20PM 21 THE SAME WAY.

01:20PM 22 IN OTHER WORDS, TELLING THE CUSTOMERS, YOU KNOW CISCO, YOU
01:20PM 23 CAN USE MINE BECAUSE IT'S THE SAME.

01:20PM 24 NOW, LET ME TAKE A STEP BACK HERE AND TALK A LITTLE BIT
01:20PM 25 ABOUT CISCO. I'M SURE A NUMBER OF YOU KNOW ABOUT CISCO. IT'S

01:20PM 1 A BAY AREA COMPANY. AND YOU ALL LIVE HERE IN THE BAY AREA, BUT
01:20PM 2 LET ME GIVE YOU A LITTLE BIT OF BACKGROUND THAT YOU ARE GOING
01:20PM 3 TO HEAR IN THIS CASE.

01:20PM 4 IT WAS FOUNDED IN 1984, SO A LITTLE BETTER THAN 30 YEARS
01:20PM 5 AGO NOW, BY SOME PEOPLE IN TECHNOLOGY THAT WERE AT STANFORD.
01:21PM 6 AND IT CONTINUES TO BE A LEADER IN INTERNET AND CLOUD
01:21PM 7 TECHNOLOGY TODAY, AS THINGS GROW. CISCO MAKES MANY, MANY
01:21PM 8 PRODUCTS.

01:21PM 9 BUT IN THIS CASE IT'S GOING TO BE IMPORTANT TO GO BACK IN
01:21PM 10 TIME, RIGHT? BECAUSE SOME THINGS WE ARE TALKING ABOUT HERE,
01:21PM 11 THIS USER INTERFACE, THIS COMMAND-LINE INTERFACE THAT I TALKED
01:21PM 12 ABOUT, YOU ARE GOING TO HEAR FROM A GENTLEMAN, HE'S GOING TO
01:21PM 13 TESTIFY HOPEFULLY LATER THIS AFTERNOON, MR. KIRK LOUGHEED IS
01:21PM 14 HIS NAME. AND HE WAS WORKING ON THESE THINGS AND DEVELOPING,
01:21PM 15 ALONG WITH THE SWITCHES THEMSELVES, THIS COMMAND-LINE
01:21PM 16 INTERFACE. IN OTHER WORDS, SOMETHING PEOPLE COULD USE TO
01:21PM 17 CONFIGURE THESE PRODUCTS TO TROUBLESHOOT THEIR NETWORKS.

01:21PM 18 SEE, THIS IS GOING BACK IN TIME. SOMETIMES IT'S HARDER TO
01:21PM 19 REMEMBER HOW THINGS WORK. BUT AT THIS TIME, THIS BOX WITH THE
01:22PM 20 LITTLE PICTURE OF THE GOLDEN GATE BRIDGE THERE, KIND OF THE
01:22PM 21 SIDE VIEW OF THE GOLDEN GATE BRIDGE, THAT SAYS CISCO SYSTEMS ON
01:22PM 22 IT, THAT'S ACTUALLY ONE OF THE FIRST COMMERCIAL, WHAT WE CALL
01:22PM 23 INTERNET PROTOCOL ROUTERS.

01:22PM 24 SO YOU MAY HAVE HEARD THAT TERM IP, INTERNET PROTOCOL, IN
01:22PM 25 CONNECTION WITH THE INTERNET. WHEN MR. LOUGHEED WAS WORKING ON

01:22PM 1 THIS, HE WAS ONE OF THE VERY FIRST TO DO THIS.

01:22PM 2 SO WHEN WE START, YOU ARE GOING TO HEAR A NUMBER OF THINGS
01:22PM 3 FROM ARISTA'S COUNSEL AND FROM ARISTA'S WITNESSES ABOUT A LOT
01:22PM 4 OF THESE TERMS THAT WE SEE IN THE USER INTERFACE, SOME OF THE
01:22PM 5 COMMANDS THAT I'M GOING TO TALK ABOUT IN A MINUTE. THERE ARE
01:22PM 6 TERMS THAT MAY BE COMMON NOW, YOU KNOW, REFER TO PROTOCOLS,
01:22PM 7 THINGS LIKE THAT.

01:22PM 8 BUT WE'VE GOT TO PUT OURSELVES BACK TO WHEN IT WAS CREATED.
01:22PM 9 DON'T THINK ABOUT THE WAY THINGS ARE NOW, BECAUSE IF THAT WAS
01:22PM 10 TRUE, YOU COULD JUST COPY ANYTHING, BECAUSE ONCE YOU PUT IT
01:22PM 11 DOWN, EVERYBODY KNOWS WHAT IT IS. AND THAT'S NOT THE CASE.

01:22PM 12 SO IT'S IMPORTANT TO GO BACK IN TIME AND THINK ABOUT HOW
01:23PM 13 THINGS WERE THEN RATHER THAN TRYING TO SIT HERE NOW AND THINK
01:23PM 14 ABOUT HOW THINGS MIGHT BE NOW.

01:23PM 15 SO CISCO, YOU KNOW, IT CONTINUES TO INNOVATE. YOU ARE
01:23PM 16 GOING TO HEAR ABOUT THIS. THERE ARE MANY AWARDS, AND I THINK
01:23PM 17 IT WILL PROBABLY BE NEXT WEEK WHEN YOU HEAR MOST OF THIS.

01:23PM 18 MR. JOHN CHAMBERS WILL TESTIFY, LONG TIME CEO OF CISCO, AND
01:23PM 19 HE WILL TELL YOU ABOUT SOME OF THE INNOVATION AND THE HISTORY
01:23PM 20 OF INNOVATION AND THE CULTURE OF INNOVATION AT THE COMPANY.

01:23PM 21 AND I THINK THAT'S AN IMPORTANT THING TO KEEP IN MIND AS
01:23PM 22 YOU GO THROUGH THIS CASE BECAUSE YOU MAY HEAR FROM SOME
01:23PM 23 DIFFERENT THINGS FROM THE OTHER SIDE, OR AT LEAST SOME
01:23PM 24 DIFFERENT CLAIMS FROM THE OTHER SIDE.

01:23PM 25 HERE, I WANT TO TALK ABOUT THIS FOR A LITTLE BIT BECAUSE

01:23PM 1 IT'S GOING TO BE IMPORTANT TO THIS CASE.

01:23PM 2 CISCO MAKES MANY PRODUCTS, RIGHT? MANY OF THEM RELATED TO
01:24PM 3 DIFFERENT ASPECTS OF THE INTERNET AND CORPORATE NETWORKS AND
01:24PM 4 THINGS LIKE THAT. SOME OF THEM ARE RELATED TO VOICE AND VIDEO,
01:24PM 5 THINGS THAT YOU AND I MIGHT USE MORE IF WE ARE DOING A VIDEO
01:24PM 6 CONFERENCE OR THINGS LIKE THAT. SO THERE ARE A WIDE, WIDE
01:24PM 7 RANGE OF PRODUCTS.

01:24PM 8 IN THIS IOS, WE TALKED ABOUT THIS, CISCO IOS, WHERE THE CLI
01:24PM 9 COMES FROM THAT'S AT ISSUE IN THIS CASE. THAT IS DESIGNED TO
01:24PM 10 CONTROL ALL OF THESE VARIOUS PRODUCTS, RIGHT?

01:24PM 11 SO YOU MIGHT HAVE FEATURES ON ONE PRODUCT THAT ARE
01:24PM 12 IMPORTANT TO THAT PRODUCT AND YOU HAVE FEATURES THAT ARE
01:24PM 13 IMPORTANT TO ANOTHER PRODUCT. THEY ARE OBVIOUSLY NOT ALL
01:24PM 14 IMPORTANT TO ALL THE PRODUCTS.

01:24PM 15 BUT THERE IS ONE OPERATING SYSTEM THAT YOU USE TO CONTROL
01:24PM 16 ALL OF THOSE THINGS.

01:24PM 17 SO YOU MIGHT HEAR FROM ARISTA SAYING, WELL, WAIT A MINUTE,
01:24PM 18 IOS, RIGHT, WHERE THIS USER INTERFACE COMES FROM, IT HAS TONS
01:25PM 19 AND TONS OF COMMANDS. I DON'T KNOW EXACTLY THE NUMBER YOU ARE
01:25PM 20 GOING TO HEAR, BUT LET'S SAY IT'S SOMEWHERE NORTH OF 15,000.
01:25PM 21 AND WE DIDN'T TAKE THAT MANY. SO IT'S NOT A LOT. WE DIDN'T
01:25PM 22 TAKE THAT MANY.

01:25PM 23 BUT LET ME TELL YOU WHAT THE EVIDENCE IS GOING TO SHOW HERE
01:25PM 24 AND WHAT'S IMPORTANT TO KEEP IN MIND AS YOU THINK ABOUT IT.

01:25PM 25 ARISTA, THEY ONLY HAVE ONE PRODUCT, RIGHT, THE SWITCHES

01:25PM 1 THAT WE ARE GOING TO TALK ABOUT IN THIS CASE. SWITCHES,
01:25PM 2 ROUTERS, THERE'S A QUESTION AS TO -- AND YOU WILL HEAR SOME
01:25PM 3 TESTIMONY ABOUT WHAT MIGHT BE A DISTINCTION BETWEEN THESE. BUT
01:25PM 4 THERE'S ONLY ONE PRODUCT LINE.

01:25PM 5 SO IF YOU THINK ABOUT IT, AND YOU ARE GOING TO HEAR THE
01:25PM 6 EVIDENCE IN THE CASE, YOU KNOW, WHEN YOU ARE GOING IN AND
01:25PM 7 TRYING TO FIGURE OUT WHAT THINGS YOU NEED FROM THE USER
01:25PM 8 INTERFACE, YOU TAKE WHAT IT IS YOU NEED. YOU DON'T TAKE
01:25PM 9 EVERYTHING ELSE THAT YOU DON'T NEED, RIGHT?

01:25PM 10 SO TO COME AND SUGGEST THAT, HEY, WHAT WE DID, WE JUST TOOK
01:25PM 11 A LITTLE PIECE. WHEN WE DON'T MAKE THOSE THINGS, WE DON'T USE
01:26PM 12 THOSE THINGS, THEREFORE WHAT WE DID IS UNIMPORTANT, THAT'S JUST
01:26PM 13 NOT THE CASE.

01:26PM 14 AND HOW DO WE KNOW IT'S NOT THE CASE? WELL, WE KNOW IT'S
01:26PM 15 NOT THE CASE FROM SOME OF THE STATEMENTS.

01:26PM 16 AND WHAT WE ARE GOING TO USE IN THIS CASE, THE EVIDENCE WE
01:26PM 17 ARE GOING TO SHOW YOU, A LOT OF IT IS ARISTA'S OWN DOCUMENTS
01:26PM 18 AND THEIR OWN STATEMENTS.

01:26PM 19 THIS IS MR. LINCOLN DALE AGAIN. YOU RECALL I PLAYED THAT
01:26PM 20 LITTLE CLIP FROM THE CONFERENCE WHERE HE WAS TALKING TO
01:26PM 21 CUSTOMERS ABOUT ARISTA, THE COMMANDS, THE SAME IOS COMMANDS.

01:26PM 22 WELL, HERE IN THIS INTERNAL DOCUMENT THAT YOU ARE GOING TO
01:26PM 23 SEE, WHICH IS A DOCUMENT THAT IS A RESPONSE TO SOME SALES
01:26PM 24 ENGINEERS WHO ARE ASKING QUESTIONS ABOUT, YOU KNOW, HOW WE
01:26PM 25 COMPARE TO CERTAIN OTHER COMPETITORS OUT THERE WITH RESPECT TO

01:26PM 1 THE USER INTERFACE, AND HE CONCLUDES BY SAYING, WE WOULD BE A
01:27PM 2 PRACTICAL DROP-IN REPLACEMENT FOR THE CISCO, GIVEN THE 99.9999
01:27PM 3 SIMILARITY IN THE CLI, RIGHT.

01:27PM 4 SO THINK ABOUT THAT WHEN YOU ARE GOING THROUGH. THERE'S
01:27PM 5 GOING TO BE MORE OF THIS EVIDENCE AND YOU ARE GOING TO HEAR
01:27PM 6 FROM MR. DALE.

01:27PM 7 WHEN YOU ARE OUT THERE AND YOU ARE TRYING TO SELL TO
01:27PM 8 CUSTOMERS YOUR PRODUCT, YOUR COMPETING PRODUCT, YOU ARE TELLING
01:27PM 9 THEM, WE ARE THE DROP-IN REPLACEMENT, WE ARE THE SAME.

01:27PM 10 WHEN YOU COME TO COURT AND NOW YOU WANT TO BE EXCUSED FOR
01:27PM 11 YOUR COPYING, YOU SAY, WE DIDN'T TAKE VERY MUCH.

01:27PM 12 SO THINK ABOUT, AS YOU ARE GOING THROUGH AND YOU ARE
01:27PM 13 EVALUATING THE EVIDENCE, THINK ABOUT THAT. BECAUSE I THINK
01:27PM 14 THAT'S AN IMPORTANT CONTRADICTION TO KEEP IN MIND.

01:27PM 15 SO LET ME NOW MOVE TO ARISTA A LITTLE BIT. SO HERE IS
01:27PM 16 ACTUALLY A PRESENTATION TO INVESTORS FROM ARISTA, KIND OF
01:28PM 17 TALKING ABOUT SOME OF THE EXECUTIVE TEAMS AND SOME OF THE KEY
01:28PM 18 POSITIONS AND VP AND ENGINEERS AND THINGS AT ARISTA.

01:28PM 19 AND ONE THING YOU WILL NOTICE ON THIS -- AND I'M GOING TO
01:28PM 20 HIGHLIGHT IT SO WE CAN SEE IT A LITTLE BIT BETTER -- BUT THE
01:28PM 21 VAST MAJORITY OF THESE PEOPLE, IF I COUNTED UP, ALL BUT TWO --
01:28PM 22 THREE, EXCUSE ME, THE -- MR. SMITH, MS. BRANNAN, AND MR. TAXAY,
01:28PM 23 HAVE THEIR ROOTS IN CISCO.

01:28PM 24 AND YOU ARE GOING TO HEAR THAT AND YOU ARE GOING TO HEAR
01:28PM 25 EVIDENCE OF THAT, THAT THE PEOPLE WHO WENT OUT AND FOUNDED

01:28PM 1 ARISTA AND BUILT THEIR PRODUCTS ARE, MANY OF THEM, FORMER CISCO
01:28PM 2 PEOPLE THAT WERE WORKING ON EXACTLY THE SAME PRODUCTS WHEN THEY
01:28PM 3 WERE AT CISCO.

01:28PM 4 SO JUST TO GO THROUGH A LITTLE BIT OF HISTORY, A LITTLE BIT
01:29PM 5 OF TIMELINE HERE, I THINK WHAT THE EVIDENCE IS GOING TO SHOW IS
01:29PM 6 THAT ARISTA WAS FOUNDED IN ABOUT 2004. THEY STARTED --
01:29PM 7 ORIGINALLY YOU WILL HEAR THE EVIDENCE THAT THEY WERE LOOKING AT
01:29PM 8 SOMETHING DIFFERENT.

01:29PM 9 IN OTHER WORDS, THEY WEREN'T LOOKING AT DOING THE NETWORK
01:29PM 10 SWITCHES THAT ARE GOING TO BE AT ISSUE IN THIS CASE. THEY WERE
01:29PM 11 LOOKING AT DOING THIS DIFFERENT PRODUCT, IT'S CALLED RAIL, AND
01:29PM 12 I DON'T NEED TO GET INTO IT TOO MUCH, BUT LET'S SAY IT'S VERY
01:29PM 13 DIFFERENT THAN THE SWITCHES AND ROUTERS THAT ARE AT ISSUE HERE.

01:29PM 14 THAT WAS ABANDONED FOR VARIOUS REASONS, AND MR. DUDA MAY
01:29PM 15 EXPLAIN TO YOU WHY THAT WAS THE CASE.

01:29PM 16 THEN WHAT THE EVIDENCE IS GOING TO BE, I BELIEVE WHAT YOU
01:29PM 17 ARE GOING TO HEAR IS ARISTA WENT BACK TO MORE OF WHAT THEY
01:29PM 18 KNEW, MORE OF WHAT THEY WERE FAMILIAR WITH. WE KNOW HOW TO
01:29PM 19 BUILD THESE SWITCHES.

01:29PM 20 AND IT'S 2008 WHERE THAT FIRST NETWORKING SWITCH WAS
01:30PM 21 RELEASED. AND WHAT YOU ARE GOING TO HEAR IS THAT WAS A PRETTY
01:30PM 22 NICHE PRODUCT, VERY SPECIALIZED, NOT SOMETHING THAT REALLY
01:30PM 23 COMPETED WITH ANY OF THE CISCO OFFERINGS THAT WERE OUT THERE.

01:30PM 24 IT'S NOT UNTIL THE 2011/2012 TIMEFRAME, RIGHT IN THERE,
01:30PM 25 THAT ARISTA REALLY ENTERS THE DATA CENTER MARKET AND STARTS

01:30PM 1 COMPETING HEAD-TO-HEAD WITH CISCO.

01:30PM 2 SO IN OTHER WORDS, CISCO STARTS TO SEE WHAT IT IS THAT THEY
01:30PM 3 ARE DOING, HOW THEY ARE MARKETING THEIR PRODUCT VERSUS THE
01:30PM 4 CISCO PRODUCT.

01:30PM 5 SO THAT TIMELINE I THINK IS IMPORTANT TO KEEP IN MIND AS
01:30PM 6 YOU GO THROUGH THE EVIDENCE HERE AND YOU ARE EVALUATING THE
01:30PM 7 EVIDENCE.

01:30PM 8 BECAUSE WE ARE GOING TO HEAR STATEMENTS LIKE THIS, THIS IS
01:30PM 9 ANOTHER PUBLIC STATEMENT, AND THIS IS MS. ULLAL AGAIN, THE
01:30PM 10 CHIEF EXECUTIVE OFFICER OF ARISTA.

01:30PM 11 AND SHE SAYS -- THIS IS A PUBLIC STATEMENT, AND IT WILL BE
01:30PM 12 AN EXHIBIT HERE AT TRIAL -- THERE IS A LOT OF CISCO DNA IN THIS
01:31PM 13 COMPANY. SINCE I HELPED BUILD THE CISCO ENTERPRISE, I WOULD
01:31PM 14 NEVER COMPETE WITH CISCO DIRECTLY IN THE ENTERPRISE IN A
01:31PM 15 CONVENTIONAL WAY. IT MAKES NO SENSE. IT WOULD TAKE ME
01:31PM 16 15 YEARS AND 15,000 ENGINEERS, AND THAT'S NOT A RECIPE FOR
01:31PM 17 SUCCESS.

01:31PM 18 WELL, MS. ULLAL WILL BE HERE. BUT THINK ABOUT THIS
01:31PM 19 STATEMENT HERE. I MEAN, THIS IS A STATEMENT THAT'S MADE TO THE
01:31PM 20 PUBLIC THAT SAYS, I'M NOT GOING TO COMPETE WITH CISCO IN A
01:31PM 21 CONVENTIONAL WAY. I'M NOT GOING TO MAKE THE INVESTMENT OF THE
01:31PM 22 TIME AND THE ENGINEERS TO DEVELOP THE TECHNOLOGY THE WAY CISCO
01:31PM 23 DID.

01:31PM 24 NOW, EXACTLY WHAT SHE WAS REFERRING TO, WE WILL SEE. BUT
01:31PM 25 WE KNOW WHAT THE RESULTS ARE. WE KNOW WHAT THE PUBLIC

01:31PM 1 STATEMENTS WERE THAT I SHOWED YOU EARLIER, WHICH IS, I'M GOING
01:31PM 2 TO GO OUT AND I'M GOING TO COPY THIS CLI, I'M GOING TO COPY IT
01:31PM 3 BECAUSE YOUR CUSTOMERS KNOW IT. I'M GOING TO COPY IT BECAUSE
01:31PM 4 IT WILL BE A SEAMLESS TRANSITION FOR THEM.

01:32PM 5 SO PERHAPS THAT'S UNCONVENTIONAL.

01:32PM 6 NOW, I TOLD YOU I WAS GOING TO TELL YOU MORE ABOUT THE USER
01:32PM 7 INTERFACE THAT'S HERE. I THINK IT'S GOOD FOR YOU TO START TO
01:32PM 8 GET FAMILIAR WITH THAT TO TRY TO UNDERSTAND WHAT I'M TALKING
01:32PM 9 ABOUT BECAUSE YOU HAVEN'T SEEN IT BEFORE.

01:32PM 10 SO CISCO HAS COPYRIGHTS OF ITS USER INTERFACE, AND AS I
01:32PM 11 SAID, IF YOU LOOK HERE ON THE RIGHT, IT'S JUST A DEPICTION
01:32PM 12 OF -- JUST TO GIVE YOU A LITTLE BIT, WE CALL THEM
01:32PM 13 DEMONSTRATIVES AS LAWYERS, BUT IT'S TEXT-BASED, RIGHT, IT'S
01:32PM 14 WORDS THAT ARE THERE. MUCH LIKE, YOU KNOW, A BOOK ON A
01:32PM 15 TELEVISION, OR EXCUSE ME, ON A COMPUTER SCREEN.

01:32PM 16 SO WHAT ARE THESE -- WHAT ARE THESE USED FOR? AND YOU ARE
01:32PM 17 GOING TO HEAR SOME OF THIS FROM MR. LOUGHEED, REMEMBER I TOLD
01:32PM 18 YOU THE GENTLEMAN WHO DID A LOT OF THE EARLY DEVELOPMENT IN
01:32PM 19 THIS AND WHAT HE DEVELOPED IT FOR AND WHAT IT WAS USED FOR.

01:33PM 20 WHAT YOU ARE GOING TO HEAR IS THIS IS -- USER INTERFACE IS
01:33PM 21 SOMETHING THAT ALLOWS A NETWORK ENGINEER, IN OTHER WORDS, THE
01:33PM 22 NETWORK ADMINISTRATORS THAT HAVE TO KEEP THESE NETWORKS UP AND
01:33PM 23 RUNNING, RIGHT? IF THEY ARE WORKING AT A HOSPITAL AT KAISER
01:33PM 24 PERMANENTE, FOR EXAMPLE, YOU WILL HEAR, IT'S IMPORTANT IF THAT
01:33PM 25 NETWORK GOES DOWN, IT CAN BE A BIG PROBLEM, RIGHT?

01:33PM 1 OR OTHER COMPANIES LIKE THAT, GOOGLE, WE ALL HAVE
01:33PM 2 EXPERIENCE, AND FACEBOOK MAY GO DOWN FOR A WHILE.

01:33PM 3 THAT'S THEIR JOB IS TO MAKE SURE THAT THESE NETWORKS ARE UP
01:33PM 4 AND RUNNING. AND ONE OF THE THINGS THEY USE WHEN THAT HAPPENS,
01:33PM 5 YOU KNOW, TO DO THIS TROUBLESHOOTING, TO DO THOSE KINDS OF
01:33PM 6 THINGS WHEN THE TIME PRESSURE IS THERE, IS THIS COMMAND-LINE
01:33PM 7 INTERFACE, THIS USER INTERFACE BECAUSE THEY CAN SEE EVERYTHING
01:33PM 8 IN THE NETWORK. IT ISN'T JUST THAT LITTLE SWITCH. YOU ARE
01:33PM 9 GOING TO HEAR NOT JUST THAT ONE, BUT EVERYTHING IT'S CONNECTED
01:33PM 10 TO AND WHAT'S GOING ON IN THAT NETWORK.

01:33PM 11 AND THAT'S WHAT'S IMPORTANT AND YOU ARE GOING TO HEAR
01:34PM 12 TESTIMONY AND EVIDENCE THAT WHEN THEY NEED IT, THIS IS WHAT
01:34PM 13 THEY USE. THIS IS WHAT THEY TRUST. THIS IS WHAT THEY COME
01:34PM 14 BACK TO.

01:34PM 15 SO LET ME TALK A LITTLE BIT MORE ABOUT SOME OF THE EVIDENCE
01:34PM 16 THAT YOU ARE GOING TO HEAR IN THE CASE. BECAUSE THE WAY THIS
01:34PM 17 WORKS WE KIND OF, WE BREAK THIS DOWN INTO SOME ELEMENTS. AND I
01:34PM 18 THINK THE JUDGE REFERRED TO THEM AS PROTECTABLE ELEMENTS,
01:34PM 19 RIGHT, THINGS THAT ARE -- HAVE SOME ORIGINALITY AND CREATIVITY.

01:34PM 20 SO ALTHOUGH THESE THINGS ARE ALL INTERRELATED AND I'M GOING
01:34PM 21 TO SHOW YOU A LITTLE BIT OF A GRAPHIC HERE THAT KIND OF PUTS
01:34PM 22 THOSE THINGS TOGETHER. IT'S THE FOUR THINGS YOU WILL HEAR
01:34PM 23 ABOUT ARE MULTIWORD COMMANDS, SO IN OTHER WORDS, YOU KNOW, THE
01:34PM 24 ACTUAL COMMANDS, AND I WILL SHOW YOU SOME EXAMPLES OF THOSE.

01:34PM 25 THE OUTPUTS, WHICH IS KIND OF WHAT YOU GET BACK, RIGHT,

01:34PM 1 WHEN YOU ISSUE A COMMAND BECAUSE YOU WANT CERTAIN INFORMATION
01:34PM 2 ABOUT THE NETWORK BACK OR ABOUT THE VARIOUS SWITCHES, THOSE
01:34PM 3 KINDS OF THINGS.

01:34PM 4 YOU GET HELP DESCRIPTION, MEANING -- AND THIS WILL BE
01:35PM 5 IMPORTANT LATER, BUT YOU MIGHT REMEMBER SOME PART OF A
01:35PM 6 PARTICULAR COMMAND OR YOU MIGHT KNOW THAT I CAN LOOK AT VARIOUS
01:35PM 7 THINGS AND IT SHOWS ONE OF THE THINGS IT'S GOING TO DO THAT FOR
01:35PM 8 ME, OR I THINK I SAID THE THING, THAT'S GOING TO DO THAT FOR
01:35PM 9 ME. SHOW IS THE THING THAT'S GOING TO DO THAT FOR ME.

01:35PM 10 SO I TYPE THE QUESTION MARK AND I GET ALL, KIND OF THE NEXT
01:35PM 11 LEVEL OF COMMANDS, LIKE ALL THE OTHER, THE THINGS THAT I CAN
01:35PM 12 SHOW, RIGHT? THOSE WOULD BE CALLED THE HELP DESCRIPTIONS.
01:35PM 13 TELLING A NETWORK ADMINISTRATOR, BECAUSE THAT'S WHAT THE
01:35PM 14 AUDIENCE IS FOR THESE THINGS, THESE ARE THE PEOPLE WHO USE
01:35PM 15 THESE INTERFACES, WHAT THEY CAN DO.

01:35PM 16 THEN THERE'S GOING TO BE A PARTICULAR ARRANGEMENT OF SOME
01:35PM 17 MODES AND PROMPTS. IN OTHER WORDS, HOW VARIOUS MODES OF
01:35PM 18 OPERATION, INCLUDING THE PROMPT THAT TELLS YOU KIND OF
01:35PM 19 INDICATES THAT USER, WHAT MODE THEY ARE IN, AND HOW THOSE ARE
01:36PM 20 ARRANGED IN THE CISCO USER INTERFACE.

01:36PM 21 SO THOSE ARE THE THINGS THAT WE ARE GOING TO BE TALKING
01:36PM 22 ABOUT HERE.

01:36PM 23 AND LET ME JUST KIND OF RUN THROUGH -- AND THEN OF COURSE
01:36PM 24 YOU HEARD SOME OF THIS, THERE ARE USER MANUALS, WHICH ARE NOT
01:36PM 25 PART OF THE USER INTERFACE. THEY DESCRIBE SOME OF THE

01:36PM 1 OPERATION OF THE USER INTERFACE, AND THERE WAS COPYING THERE AS
01:36PM 2 WELL.

01:36PM 3 SO LET ME RUN THROUGH AN EXAMPLE HERE. SO HERE I HAVE, I'M
01:36PM 4 IN A PARTICULAR MODE OF OPERATION, AND IT GIVES ME A PROMPT, IN
01:36PM 5 THIS CASE IT'S A POUND SIGN. AND HERE I'VE DEPICTED A NETWORK
01:36PM 6 ADMINISTRATOR THAT'S SITTING THERE THAT WANTS TO GET SOME
01:36PM 7 INFORMATION HERE ABOUT THE NETWORK.

01:36PM 8 SO HE WILL TYPE IN A MULTIWORD COMMAND. I SHOWED ONE OF
01:36PM 9 THEM CALLED SHOW INVENTORY. AND YOU ARE GOING TO HEAR SOME
01:36PM 10 TESTIMONY, MAYBE THIS AFTERNOON, MAYBE TOMORROW, ABOUT THIS
01:36PM 11 PARTICULAR COMMAND, THIS SHOW INVENTORY COMMAND.

01:36PM 12 AND THAT WILL THEN, AS I SHOWED, BE SENT TO THE SWITCH.

01:37PM 13 AND THEN THE SCREEN OUTPUT WILL COME BACK, IN OTHER WORDS,
01:37PM 14 THE COMMAND OUTPUT. WHAT KIND OF INFORMATION DID YOU ASK FOR?
01:37PM 15 WHAT KIND OF INFORMATION DO I HAVE?

01:37PM 16 AND THAT COMES BACK AND IS DISPLAYED IN A PARTICULAR WAY,
01:37PM 17 BECAUSE WHEN YOU THINK ABOUT IT, A USER NETWORK ADMINISTRATOR,
01:37PM 18 THEY EXPECT IT A PARTICULAR WAY. IF THE INFORMATION IS JUST
01:37PM 19 RANDOMLY ON THERE, THAT'S DIFFICULT FOR THEM TO USE.

01:37PM 20 SO NOW I WANT TO TALK ABOUT THE HELP DESCRIPTION THAT I
01:37PM 21 JUST WAS DESCRIBING A BIT HERE.

01:37PM 22 SO HERE I'M -- I HAVE MY PROMPT, AND NOW I TYPE IN SHOW,
01:37PM 23 AND QUESTION MARK, BECAUSE I CAN'T REMEMBER WHAT VARIOUS THING
01:37PM 24 IT IS THAT I CAN SHOW. I SEND THAT TO THE SWITCH.

01:37PM 25 AND IT WILL SEND ME BACK INFORMATION THAT HAS THE VARIOUS

01:37PM 1 HELP DESCRIPTIONS THERE. IN OTHER WORDS, KIND OF WHAT'S THE
01:37PM 2 NEXT LEVEL OF THE COMMAND, WHAT KINDS OF THINGS CAN I DO?

01:37PM 3 SO THAT'S A BASIC DESCRIPTION OF WHAT THE ORGANIZATION IS
01:38PM 4 HERE THAT WE ARE GOING TO BE TALKING ABOUT IN THIS PARTICULAR
01:38PM 5 CASE.

01:38PM 6 AND HERE WHAT I'M SHOWING, THERE'S 506 OF THESE MULTIWORD
01:38PM 7 COMMANDS THAT ARE AT ISSUE HERE. SO IN OTHER WORDS, 506 THAT
01:38PM 8 WE BELIEVE THE EVIDENCE WILL SHOW THAT ARISTA TOOK AND COPIED,
01:38PM 9 RIGHT? AND I'M REFERRING TO THE PROTECTABLE -- EXCUSE ME --
01:38PM 10 WHAT HER HONOR REFERRED TO AS THE PROTECTABLE ELEMENTS.

01:38PM 11 WELL, I DON'T HAVE TIME, BECAUSE WE WOULD BE HERE UNTIL
01:38PM 12 JUNE, PERHAPS, IF I BROUGHT IN A WITNESS TO TESTIFY ABOUT EVERY
01:38PM 13 SINGLE COMMAND. WE JUST DON'T HAVE TIME TO DO THAT.

01:38PM 14 BUT WHAT YOU ARE GOING TO HEAR IS ABOUT THE PROCESS, THE
01:38PM 15 PROCESS AT CISCO ABOUT HOW THESE COMMANDS ARE AUTHORED, WHAT
01:38PM 16 KIND OF DEBATE GOES INTO THAT, WHAT KIND OF CHOICES ARE MADE,
01:39PM 17 NOT JUST IN THE WORDS THEMSELVES, BUT IN THE STRUCTURE OF THE
01:39PM 18 COMMANDS. AND I WILL EXPLAIN A LITTLE BIT, YOU KNOW, THE
01:39PM 19 SEQUENCING OF THE WORDS, WHY THAT'S IMPORTANT.

01:39PM 20 SO YOU KNOW, HERE I JUST HAVE A FEW, AND YOU ARE GOING TO
01:39PM 21 HEAR SOME INFORMATION ABOUT THESE COMMANDS. AND YOU WILL SEE
01:39PM 22 THAT THERE ARE WORD CHOICES THAT GO INTO THOSE AND YOU WILL
01:39PM 23 HEAR TESTIMONY FROM SOME CISCO WITNESSES, INCLUDING MR. REMAKER
01:39PM 24 AND MR. LOUGHEED, THAT THERE ARE OFTENTIMES SOME HEALTHY DEBATE
01:39PM 25 AMONG THE ENGINEERS AT CISCO ABOUT WHAT THEY SHOULD BE

01:39PM 1 CHOOSING, AND THERE'S VARIOUS FACTORS THAT GO INTO THAT.

01:39PM 2 BUT THERE'S ANOTHER THING THAT'S IMPORTANT HERE WHEN WE
01:39PM 3 TALK ABOUT THE COMMANDS. YOU ARE GOING TO HEAR FROM ARISTA
01:39PM 4 THAT THESE AREN'T ORIGINAL, RIGHT? THESE ARE NOT SOMETHING
01:39PM 5 THAT CISCO SHOULD BE ABLE TO PROTECT.

01:39PM 6 JUST ONE POINT ON THAT BEFORE I GO ANY FURTHER. YOU ARE
01:39PM 7 NOT GOING TO HEAR ANY EVIDENCE FROM ARISTA THAT A SINGLE ONE OF
01:40PM 8 THESE COMMANDS -- REMEMBER I TOLD YOU GO BACK IN TIME AND PUT
01:40PM 9 YOURSELF BACK TO WHEN THESE THINGS WERE BEING CREATED AND WHAT
01:40PM 10 THE STATE OF THINGS WERE -- YOU ARE NOT GOING TO HEAR THAT
01:40PM 11 THERE'S A SINGLE ONE OF THESE THAT WERE USED BEFORE CISCO CAME
01:40PM 12 UP WITH IT, NOT ONE.

01:40PM 13 SO KEEP THAT IN MIND.

01:40PM 14 BUT ANOTHER THING THAT YOU ARE GOING TO HEAR ABOUT,
01:40PM 15 BECAUSE, YOU KNOW, I HAVE THAT PICTURE AND IT LOOKS A LITTLE
01:40PM 16 CHAOTIC, RIGHT, WHEN YOU PUT THE COMMANDS UP THAT WAY AND THEY
01:40PM 17 ARE ALL KIND OF INTERSPERSED. YOU KNOW, I'VE DONE SOMETHING
01:40PM 18 HERE AND YOU WILL SEE I'VE COLOR CODED AND PULLED OUT THE ONES
01:40PM 19 THAT BEGIN WITH IP, RIGHT?

01:40PM 20 AND YOU ARE GOING TO HEAR FROM MR. REMAKER, AND OTHERS,
01:40PM 21 WHAT THE SIGNIFICANCE OF THIS IS. THERE'S A SEQUENCE THAT'S
01:40PM 22 IMPORTANT.

01:40PM 23 SO IN OTHER WORDS, IT DOESN'T -- YOU CAN'T JUST PUT THE
01:40PM 24 WORDS TOGETHER AND SAY, OKAY, IT'S ALL THE SAME, IT DOESN'T
01:40PM 25 MATTER.

01:40PM 1 BECAUSE WHAT YOU ARE TRYING TO DO -- REMEMBER, THESE
01:40PM 2 NETWORK ADMINISTRATORS ARE OUT THERE AND IT'S A TIME-CRITICAL
01:41PM 3 SITUATION AND THEY'VE GOT TO BE ABLE TO USE THIS IN A, YOU
01:41PM 4 KNOW, IN THE MANNER THEY NEED TO USE IT IN.

01:41PM 5 SO YOU'VE GOT TO MAKE SOME CHOICES ABOUT HOW YOU ARE GOING
01:41PM 6 TO STRUCTURE THESE COMMANDS. AND YOU WILL HEAR THE TERM
01:41PM 7 "HIERARCHY," WHICH IS REALLY JUST HOW THE SEQUENCES OF WORDS
01:41PM 8 ARE ORGANIZED IN THE PARTICULAR COMMAND. AND THERE'S DEBATE
01:41PM 9 THAT GOES ON ABOUT THAT, BECAUSE HERE FOR IP, FOR EXAMPLE --
01:41PM 10 AND YOU WILL HEAR ABOUT SOME OF THIS FROM MR. LOUGHEED -- IT
01:41PM 11 WASN'T AN OBVIOUS CHOICE TO DO THAT. IN FACT, ORIGINALLY HE
01:41PM 12 SIMPLY -- HE DIDN'T EVEN USE THE TERM "IP," RIGHT? HE MIGHT
01:41PM 13 SIMPLY USE THE TERM "ADDRESS," BECAUSE BACK AT THAT TIME HE
01:41PM 14 WASN'T WORRIED ABOUT OTHER PROTOCOLS THAT THE SWITCH MIGHT BE
01:41PM 15 ABLE TO USE.

01:41PM 16 SO THERE'S -- THERE IS CREATIVITY THAT GOES INTO THIS
01:41PM 17 BECAUSE WHAT IT DOES IS IT CREATES A MENTAL MODEL FOR THE USER.
01:41PM 18 YOU KNOW, IT'S A WAY FOR THEM TO THINK ABOUT IT AND SAY, I KNOW
01:41PM 19 I WANT TO DO SOMETHING RELATED TO IP, SO I'M GOING TO THINK
01:42PM 20 THAT THAT'S WHERE THESE COMMANDS MIGHT BE BECAUSE IT'S
01:42PM 21 FUNCTIONALITY THAT'S RELATED TO THAT. AND SO THAT'S THE WAY,
01:42PM 22 IF YOU THINK, AS THE DESIGNER, THAT THAT'S THE PREDOMINANT WAY
01:42PM 23 SOMEBODY IS GOING TO THINK ABOUT THIS, AND THIS IS PART OF THE
01:42PM 24 DEBATE THAT'S GOING ON, THAT'S THE WAY YOU ARE GOING TO
01:42PM 25 ORGANIZE IT.

01:42PM 1 AS OPPOSED TO -- LET ME GO TO ANOTHER ONE. SEE, HERE'S
01:42PM 2 SHOW. AND SHOW IS WHAT CISCO CAME UP WITH WHEN YOU WANTED TO
01:42PM 3 DISPLAY INFORMATION OR PRINT. YOU KNOW, THERE WERE DIFFERENT
01:42PM 4 THINGS, AND YOU WILL HEAR TESTIMONY ABOUT THAT, WAY BACK, THAT
01:42PM 5 OTHER SYSTEMS HAD USED FOR THAT KIND OF FUNCTIONALITY.

01:42PM 6 SO WHEN THEY WANTED TO SHOW CERTAIN INFORMATION THAT WAS IN
01:42PM 7 THE NETWORK, AND THAT WAS PREDOMINANTLY WHAT YOU WANTED TO DO,
01:42PM 8 YOU WOULD SAY, I WANT TO CREATE A COMMAND THAT'S WITHIN THIS
01:42PM 9 SHOW HIERARCHY.

01:42PM 10 IN OTHER WORDS, SHOW WOULD BE WHAT WE CALL THE PARENT. IN
01:42PM 11 OTHER WORDS, THE FIRST WORD IN THIS ONE.

01:42PM 12 AND YOU WILL SEE HERE -- IT'S INTERESTING, BECAUSE YOU WILL
01:43PM 13 SEE SEVERAL OF THEM THAT SAY SHOW IP, BGP, NEIGHBORS IS ONE.
01:43PM 14 SHOW IP INTERFACE, IPV6, SO THERE ARE ONES IN THERE THAT
01:43PM 15 ACTUALLY REFER TO FUNCTIONALITY IN THE IP PROTOCOL.

01:43PM 16 BUT THE TESTIMONY IS GOING TO BE, SOMEBODY SAT THERE AND
01:43PM 17 MADE THE DECISION, NO, THAT'S NOT WHAT I WANT TO DO. THAT'S
01:43PM 18 NOT HOW I WANT TO SEQUENCE THIS COMMAND. THAT'S NOT HOW I WANT
01:43PM 19 TO STRUCTURE THIS COMMAND.

01:43PM 20 WHAT I WANT TO DO, I THINK PREDOMINANTLY WHEN SOMEBODY IS
01:43PM 21 THINKING ABOUT THIS, THEY ARE GOING TO WANT TO -- THEY ARE
01:43PM 22 GOING TO BE THINKING ABOUT WHAT INFORMATION THEY CAN SHOW.

01:43PM 23 AND THOSE DECISIONS WERE MADE, AND THAT'S PART OF THE
01:43PM 24 ORIGINALITY AND CREATIVITY PROCESS YOU ARE GOING TO HEAR. YOU
01:43PM 25 ARE NOT GOING TO HEAR IT WITH RESPECT TO EVERY SINGLE ONE OF

01:43PM 1 THESE COMMANDS BECAUSE I DON'T HAVE TIME FOR THAT. BUT YOU
01:43PM 2 WILL HEAR TESTIMONY ABOUT THIS PROCESS AND THIS DEBATE.

01:43PM 3 YOU WILL HEAR ABOUT A FEW OF THEM, THOUGH. AND HERE'S ONE
01:43PM 4 THAT YOU WILL HEAR ABOUT FROM MR. REMAKER, BECAUSE MR. REMAKER
01:44PM 5 WAS ACTUALLY THE AUTHOR OF THIS PARTICULAR COMMAND. THAT'S ONE
01:44PM 6 CALLED SHOW INVENTORY, RIGHT? AND SHOW INVENTORY, YOU MAY LOOK
01:44PM 7 AT THAT AND SAY, OH, THOSE ARE COMMON WORDS.

01:44PM 8 BUT REMEMBER, THAT'S NOT THE AUDIENCE FOR THIS. WE ARE
01:44PM 9 GOING BACK IN TIME AND THINKING ABOUT WHAT WOULD BE -- WHAT
01:44PM 10 WOULD MAKE SENSE WITHIN THE EXISTING STRUCTURE OF THIS USER
01:44PM 11 INTERFACE AND WHAT WOULD MAKE SENSE TO THE PEOPLE THAT NEED TO
01:44PM 12 USE THIS IN CRITICAL TIMES, RIGHT?

01:44PM 13 AND WHAT YOU ARE GOING TO HEAR FROM MR. REMAKER IS THERE
01:44PM 14 WAS CONSIDERABLE DEBATE, CONSIDERABLE DISCUSSION BACK AND FORTH
01:44PM 15 ABOUT HOW TO STRUCTURE THIS. IN OTHER WORDS, SHOULD I PUT IT
01:44PM 16 AS I SAID UNDER THE "SHOW HIERARCHY," SHOULD I MAKE SHOW THE
01:44PM 17 FIRST WORD, OR SHOULD I CREATE A WHOLE NEW ONE THAT'S FOR
01:44PM 18 INVENTORY BECAUSE I'M GOING TO CREATE SOMETHING WHERE I WANT TO
01:44PM 19 DO A WHOLE BUNCH OF DIFFERENT THINGS REGARDING THE INVENTORY
01:44PM 20 PIECE. OKAY. IT WAS DECIDED WE ARE GOING TO HAVE SHOW BE THE
01:44PM 21 SEQUENCE. I'M GOING TO PUT IT IN THAT HIERARCHY.

01:45PM 22 BUT THEN THERE WAS ALL SORTS OF DEBATE ABOUT WHAT WORD AM I
01:45PM 23 GOING TO USE, RIGHT? SERIAL? HARDWARE? AND HE'S GOING TO
01:45PM 24 TELL YOU, SOME OF THESE WERE TAKEN, SOME OF THEM DIDN'T MAKE
01:45PM 25 SENSE.

01:45PM 1 AND, IN FACT, YOU ARE GOING TO HEAR THE WAY THAT SOME OF
01:45PM 2 THE INDUSTRY REFERRED TO THE PIECE OF EQUIPMENT THAT'S ACTUALLY
01:45PM 3 BEING, YOU ARE GETTING INFORMATION ABOUT HERE, THE MODULES
01:45PM 4 WITHIN THE BOARD -- OR EXCUSE ME -- WITHIN THE SWITCH, THEY
01:45PM 5 WERE REFERRED TO DIFFERENTLY.

01:45PM 6 SO THEY WENT ACTUALLY IN A DIFFERENT DIRECTION THAN HOW
01:45PM 7 PEOPLE REFERRED TO THOSE. AND YOU ARE GOING TO HEAR ABOUT THAT
01:45PM 8 PROCESS.

01:45PM 9 YET, YOU ARE GOING TO HEAR FROM ARISTA NOT CREATED, RIGHT,
01:45PM 10 TOTALLY DICTATED BY THE FUNCTION, NO CHOICES, ANY OF THOSE
01:45PM 11 KINDS OF THINGS. THAT'S WHAT YOU ARE GOING TO HEAR.

01:45PM 12 WELL, THAT'S JUST NOT THE CASE. AND YOU ARE GOING TO
01:45PM 13 LISTEN TO THIS PROCESS THAT PEOPLE WENT THROUGH AND YOU ARE
01:45PM 14 GOING TO SEE THAT THAT ISN'T THE CASE.

01:46PM 15 YOU KNOW WHAT ELSE YOU ARE GOING TO HEAR? WE ARE GOING TO
01:46PM 16 HEAR FROM PEOPLE THAT ARE CURRENTLY EMPLOYED BY ARISTA, AND WE
01:46PM 17 ARE GOING TO SEE EVIDENCE THAT WHEN THEY WERE WORKING ON THIS
01:46PM 18 KIND OF THING, IN OTHER WORDS, FIGURING OUT HOW THE COMMANDS
01:46PM 19 WERE GOING TO BE STRUCTURED AND WHAT TERMS THEY WERE GOING TO
01:46PM 20 USE, WHEN THEY WERE AT CISCO, THAT THEY ACTUALLY, AND THIS IS
01:46PM 21 FROM MR. ADAM SWEENEY, THIS WAS -- YOU CAN SEE THIS E-MAIL WAS
01:46PM 22 SENT WHILE HE WAS AT CISCO WORKING ON THIS. HE'S NOW AT
01:46PM 23 ARISTA. I WANT TO BE CLEAR ABOUT THAT.

01:46PM 24 BUT WHAT HE SAID IS, I AGREE THAT CLI NAMING IS VERY
01:46PM 25 SUBJECTIVE. VERY SUBJECTIVE.

01:46PM 1 SO THAT IS WHAT THEY SAID THEN.

01:46PM 2 AND NOW THEY -- HE KIND OF BACKS AWAY FROM IT A LITTLE BIT.
01:46PM 3 BUT HE AGREES IT'S VERY SUBJECTIVE.

01:46PM 4 YET HERE IN THIS CASE, THEY WANT TO TELL YOU, OH, IT ISN'T,
01:47PM 5 IT'S NOT SUBJECTIVE, IT'S NOT CREATIVE.

01:47PM 6 SO THINK ABOUT WHAT WAS SAID BEFORE WE GOT TO THIS CASE.
01:47PM 7 THINK ABOUT WHAT PEOPLE WERE SAYING ABOUT IT, AND THINK ABOUT
01:47PM 8 WHAT THAT PROCESS WAS BEFORE WE GOT TO THIS CASE.

01:47PM 9 NOW, I TALKED A LITTLE BIT ABOUT THE INDUSTRY STANDARD,
01:47PM 10 RIGHT? BECAUSE WHAT ARISTA -- ANOTHER THING THEY ARE GOING TO
01:47PM 11 TELL YOU IN THIS CASE IS I -- EVERYBODY ELSE WAS USING IT,
01:47PM 12 RIGHT, EVERYBODY ELSE WAS OUT THERE USING IT, AND THEREFORE I
01:47PM 13 SHOULD BE ABLE TO USE IT TOO.

01:47PM 14 WELL, WE KNOW FROM THIS THAT WHEN THEY USED THE TERM
01:47PM 15 "INDUSTRY STANDARD," MR. DALE USED THAT TERM, IT'S A JOKE FOR
01:47PM 16 SAYING IT'S THE SAME AS CISCO, RIGHT? THAT'S A JOKE.

01:47PM 17 NOW, WE ALSO KNOW FROM SOME OF ARISTA'S INTERNAL E-MAILS
01:47PM 18 THAT THEY BELIEVED THAT THEY WERE ACTUALLY MORE LIKE CISCO THAN
01:47PM 19 EVERYBODY ELSE. YOU ARE GOING TO HEAR THAT PEOPLE ARE OUT
01:47PM 20 THERE EMULATING CISCO AND THAT THERE ARE DOCUMENTS WITHIN CISCO
01:48PM 21 THAT REFER TO INDUSTRY STANDARDS, SURE.

01:48PM 22 CISCO -- AND YOU ARE GOING TO HEAR TESTIMONY THAT THAT'S
01:48PM 23 THE GOLD STANDARD. YOU KNOW, WE ARE AN INDUSTRY LEADER. WE
01:48PM 24 INVENT THESE THINGS, RIGHT? WE EXPECT THERE'S GOING TO BE SOME
01:48PM 25 EMULATION.

01:48PM 1 WELL, HERE, ARISTA, WHAT THEY TOLD US IS THEY HAVE BY FAR
01:48PM 2 THE MOST SIMILAR ONE. THAT'S THE TRUE INDUSTRY STANDARD.

01:48PM 3 SO IN OTHER WORDS, THEY ARE IN -- THEY ARE TELLING EACH
01:48PM 4 OTHER, YEAH, OTHER PEOPLE MIGHT DO SOME THINGS, BUT WE DO IT
01:48PM 5 THE MOST, RIGHT? WE COPY THE MOST. WE ARE 99.999 PERCENT
01:48PM 6 DROP-IN REPLACEMENT.

01:48PM 7 OKAY. SO LET ME TELL YOU ONE THING STRAIGHT UP. CISCO
01:48PM 8 DOESN'T LIKE TO BE HERE. WE DON'T LIKE TO FILE LAWSUITS. AND
01:48PM 9 IT HASN'T HAPPENED IN THE HISTORY OF THE COMPANY VERY OFTEN.
01:48PM 10 IN FACT, IN THIS COUNT, ONE OTHER TIME.

01:48PM 11 ONE OTHER TIME THIS HAPPENED, AND THERE WAS A COMPANY
01:49PM 12 CALLED HUAWEI THAT WAS OUT THERE. AND THEY DID A VERY SIMILAR
01:49PM 13 THING. AND THIS WAS FROM THE COMPLAINT, THEY CLONED THE CISCO
01:49PM 14 INTELLECTUAL PROPERTY AND THEY SLAVISHLY COPIED IT.

01:49PM 15 THAT'S WHAT HAPPENED. THEY ARE OUT THERE.

01:49PM 16 WE ARE CISCO, WE ARE GOING TO TAKE YOU WHOLESALE, AND THE
01:49PM 17 LAWSUIT WAS FILED.

01:49PM 18 ULTIMATELY HUAWEI CHANGED. THEY CHANGED WHAT THEY WERE
01:49PM 19 DOING AND THEY STOPPED USING THIS. YOU ARE GOING TO HEAR THAT
01:49PM 20 EVIDENCE.

01:49PM 21 NOW, HERE'S SOME OF ARISTA'S OWN DOCUMENTS. THIS IS THEIR
01:49PM 22 OWN DESCRIPTION. THEY SAY THE SAME THINGS. THEY USE THE SAME
01:49PM 23 WORDS. THIS SYSTEM IS A VERY CLOSE CLONE OF THE IOS CLI. WE
01:49PM 24 ACTUALLY COPIED IT SLAVISHLY.

01:49PM 25 SAME WORDS, SAME TERMS. IT'S THE SAME SITUATION.

01:49PM 1 SO YEAH, CISCO IS FINE. WE WILL BE THE INDUSTRY LEADER.
01:49PM 2 WE RECOGNIZE WHEN YOU ARE THE LEADER YOU ARE GOING TO BE
01:49PM 3 EMULATED.

01:49PM 4 BUT THAT'S A VERY DIFFERENT THING THAN GOING OUT AND
01:49PM 5 CLONING AND TELLING THE MARKET, WE ARE THE SAME, AND USING OUR
01:49PM 6 INTELLECTUAL PROPERTY TO COMPETE AGAINST US. THAT'S A VERY,
01:50PM 7 VERY DIFFERENT THING.

01:50PM 8 NOW, LET ME TALK A LITTLE BIT ABOUT THE PATENT HERE, THE
01:50PM 9 CISCO PATENT, THE UNIFIED INTERFACE PATENT. YOU ARE GOING TO
01:50PM 10 HEAR ABOUT THIS SO YOU DON'T HAVE TO ABSORB ALL THE DETAILS
01:50PM 11 NOW. BUT THIS IS SOMETHING THAT GOES BACK TO THE TECHNOLOGY
01:50PM 12 THAT CISCO WAS WORKING ON IN 2000, RIGHT, BACK AND PREVIOUS TO
01:50PM 13 THE 2000 TIMEFRAME.

01:50PM 14 AND WHAT IT REALLY IS, IT'S SOMEWHAT RELATED TO WHAT I WAS
01:50PM 15 TALKING ABOUT AND ALSO SOME OTHER THINGS.

01:50PM 16 SO YOU MAY HAVE -- LET'S JUST THINK OF A USER INTERFACE. I
01:50PM 17 HAVE A USER INTERFACE OUT THERE, AND I MIGHT WANT TO EXTEND,
01:50PM 18 LIKE ADD FUNCTIONALITY TO A PARTICULAR PRODUCT.

01:50PM 19 WELL, I DON'T NECESSARILY WANT TO HAVE TO CHANGE THE ENTIRE
01:50PM 20 USER INTERFACE TO DO THAT BECAUSE THAT MAKES IT HARDER FOR
01:50PM 21 CUSTOMERS.

01:50PM 22 SO ONE OF THE THINGS YOU CAN DO WHEN YOU HAVE THESE
01:50PM 23 MANAGEMENT PROGRAMS AND AGENTS, IN ORDER TO EXPAND THINGS, YOU
01:50PM 24 CAN ACTUALLY -- AND THIS IS THE CISCO PATENT, YOU WILL LEARN
01:50PM 25 MORE ABOUT IT -- YOU CAN HAVE SOME SOFTWARE THAT SITS IN THE

01:51PM 1 MIDDLE THAT BASICALLY ACTS LIKE A TRANSLATOR FOR YOU.

01:51PM 2 SO I DON'T HAVE TO CHANGE THAT USER INTERFACE. I CAN STILL
01:51PM 3 ACCESS ALL THAT FUNCTIONALITY WITHOUT THE USER HAVING TO LEARN
01:51PM 4 BASICALLY A WHOLE NEW LANGUAGE, RIGHT?

01:51PM 5 WELL, THIS IS WHAT'S GOING TO BE ACCUSED. SEE ARISTA, THEY
01:51PM 6 USE EXACTLY THE SAME KIND OF THING. AND THEY USE THIS THING
01:51PM 7 CALLED SYSTEM DATABASE IN THE MIDDLE. THAT'S THEIR TRANSLATOR
01:51PM 8 THAT SITS IN THE MIDDLE. THEY USE THE SAME TECHNOLOGY THAT'S
01:51PM 9 DISCLOSED IN CISCO'S PATENT AND CLAIMED IN CISCO'S PATENT.

01:51PM 10 AND HERE, DRAWING IT A DIFFERENT WAY, THEY ACTUALLY EVEN
01:51PM 11 USE SOME OF THE SAME TERMINOLOGY ABOUT MANAGEMENT AGENTS AND
01:51PM 12 PROGRAMS BEING USED TO EXPAND THE FUNCTIONS AND THIS SYSDB
01:51PM 13 FUNCTIONALITY THAT YOU ARE GOING TO HEAR A LOT ABOUT.

01:51PM 14 SO ARISTA IS GOING TO TELL YOU, HEY, WE WENT OUT AND DID
01:51PM 15 SOMETHING TOTALLY NEW AND SOMETHING TOTALLY DIFFERENT.

01:52PM 16 BUT PART OF THE WAY THEY DID THAT IS, IN ADDITION TO THE
01:52PM 17 USER INTERFACE THAT THEY TOOK, THERE'S OTHER TECHNOLOGY IN THAT
01:52PM 18 SWITCH THAT'S CISCO'S TECHNOLOGY THAT THEY ARE USING TO CREATE
01:52PM 19 THAT FUNCTIONALITY.

01:52PM 20 NOW, I JUST WANTED TO SUM THINGS UP HERE FOR YOU A LITTLE
01:52PM 21 BIT BECAUSE YOU ARE GOING TO HEAR SOME DIFFERENT THINGS.

01:52PM 22 OBVIOUSLY THERE'S TWO SIDES OF EVERY STORY, AND I
01:52PM 23 UNDERSTAND THAT, BUT ARISTA IS GOING TO TELL YOU, HEY, THIS IS
01:52PM 24 ABOUT THE USER INTERFACE. I DIDN'T TAKE THAT MUCH. IT WAS
01:52PM 25 FAIR FOR ME TO DO IT, RIGHT?

01:52PM 1 THEY ARE ALSO GOING TO TELL YOU, I DID THIS WHOLE NEW
01:52PM 2 SWITCH ON THIS WHOLE NEW TECHNOLOGY. I DID THIS WHOLE NEW
01:52PM 3 SOURCE CODE AND IT DOESN'T HAVE ANYTHING TO DO WITH CISCO'S
01:52PM 4 PRODUCT.

01:52PM 5 WELL, FIRST OF ALL, DON'T GET CONFUSED. THE USER
01:52PM 6 INTERFACE, YOU CAN IMPLEMENT THAT WITH ALL DIFFERENT KINDS OF
01:52PM 7 SOURCE CODE. IT DOESN'T CHANGE THAT YOU INFRINGE THE
01:52PM 8 COPYRIGHTS ON THE USER INTERFACE.

01:52PM 9 BUT THE OTHER THING IS THE PATENT, THE ALLEGATIONS IN THE
01:52PM 10 PATENT, YOU ARE GOING TO SEE THAT THE FUNCTIONALITY, IT'S IN
01:53PM 11 THE SOURCE CODE. THAT'S WHERE IT'S FOUND. IT'S THERE IN THE
01:53PM 12 SWITCH.

01:53PM 13 SO WE ARE NOT TALKING ABOUT SOMETHING THAT'S COMPLETELY AND
01:53PM 14 TOTALLY AND UTTERLY DIFFERENT. THERE ARE -- WE HAVE THE USER
01:53PM 15 INTERFACE, AND WE HAVE THE PATENT THAT GOES TO FUNCTIONALITY
01:53PM 16 THAT'S IMPLEMENTED IN THIS SOURCE CODE IN THE SWITCH.

01:53PM 17 SO NOW LET ME JUST KIND OF SUMMARIZE A LITTLE BIT OF WHAT I
01:53PM 18 SAID, AND I VERY MUCH APPRECIATE YOUR ATTENTIVENESS, IT IS VERY
01:53PM 19 IMPRESSIVE.

01:53PM 20 NOW, WHAT ARE YOU GOING TO HEAR FROM ARISTA -- AND I'VE
01:53PM 21 PREVIEWED SOME OF THE STUFF -- NOT VALUABLE, NOBODY USES IT,
01:53PM 22 NOBODY NEEDS IT. RIGHT? IN TERMS OF THE USER INTERFACE, THEY
01:53PM 23 DON'T REALLY.

01:53PM 24 BUT THEN THEY ARE ALSO GOING TO TELL YOU, WELL, WE HAD TO
01:53PM 25 USE IT. WE COULDN'T GET INTO THE MARKET. WE COULDN'T HAVE

01:53PM 1 CUSTOMERS. THEY WOULDN'T BUY OUR PRODUCT IF WE DIDN'T DO IT.

01:53PM 2 THINK ABOUT THAT. BOTH OF THOSE THINGS CAN'T BE TRUE.

01:53PM 3 BUT YOU ARE GOING TO HEAR BOTH OF THOSE THINGS FROM THEM.

01:53PM 4 YOU ARE ALSO GOING TO HEAR, WE DIDN'T TAKE MUCH, JUST A

01:54PM 5 LITTLE BIT.

01:54PM 6 BUT REMEMBER, AS I TOLD YOU, THEY TOOK WHAT THEY NEEDED.

01:54PM 7 AND, IN FACT, THEY ARE OUT THERE TELLING CUSTOMERS, POTENTIAL

01:54PM 8 CUSTOMERS, WE ARE A DROP-IN REPLACEMENT.

01:54PM 9 SO IN THE CASE THEY ARE GOING TO TELL YOU, I DIDN'T TAKE

01:54PM 10 MUCH.

01:54PM 11 BUT WHEN THEY ARE OUT THERE TRYING TO SELL PRODUCT AND SELL

01:54PM 12 TO CUSTOMERS, THEY ARE LIKE, I AM A DROP-IN REPLACEMENT.

01:54PM 13 THEY ARE ALSO GOING TO SAY, HEY, IT'S NOT CREATIVE.

01:54PM 14 REMEMBER I WENT THROUGH THAT AND I TALKED TO YOU ABOUT

01:54PM 15 THAT. I COULD COPY YOUR USER INTERFACE BECAUSE IT'S NOT

01:54PM 16 CREATIVE. THERE'S NOTHING IN THERE THAT SHOULD BE PROTECTED.

01:54PM 17 WELL, WE SAW THAT WHEN THOSE SAME, MANY OF THOSE SAME

01:54PM 18 INDIVIDUALS WERE WORKING ON THAT USER INTERFACE, THEY SAID IT

01:54PM 19 WAS SUBJECTIVE. IT WAS CREATIVE. THERE WAS A LOT OF DEBATE

01:54PM 20 THAT WAS GOING BACK AND FORTH.

01:54PM 21 SO, I MEAN, THINK ABOUT THAT AS YOU ARE GOING THROUGH.

01:54PM 22 IT'S SO IMPORTANT AS YOU ARE EVALUATING THIS EVIDENCE IN THIS

01:54PM 23 CASE TO PUT YOURSELF OUT OF THE LAWSUIT A BIT, RIGHT?

01:55PM 24 EVERYTHING GETS PRESENTED TO YOU IN THIS FISHBOWL OF A LAWSUIT.

01:55PM 25 BUT THINK ABOUT WHAT WAS SAID AND WHAT WAS DONE AND WHAT

01:55PM 1 PEOPLE DID WHEN THEY WEREN'T IN A LAWSUIT, WHEN THEY WEREN'T
01:55PM 2 BEING ACCUSED OF COPYRIGHT INFRINGEMENT, THOSE KINDS OF THINGS.
01:55PM 3 IT'S AN IMPORTANT THING AS YOU GO THROUGH AND EVALUATE THIS
01:55PM 4 EVIDENCE --

01:55PM 5 HOW MUCH TIME DO I HAVE, YOUR HONOR?

01:55PM 6 THE COURT: TWO MINUTES.

01:55PM 7 MR. NELSON: TWO MINUTES. OKAY. GOOD TIMING.

01:55PM 8 SO AS YOU GO THROUGH AND EVALUATE THAT, IT'S VERY, VERY
01:55PM 9 IMPORTANT THAT YOU KEEP THAT IN MIND AS YOU ARE EVALUATING THE
01:55PM 10 EVIDENCE BECAUSE YOU WILL NOT SEE A SINGLE DOCUMENT FROM ARISTA
01:55PM 11 THAT SAYS THAT ANYBODY DID ANY OF THIS -- THESE COMMANDS FIRST.

01:55PM 12 THEY ARE ALL UNIQUE TO CISCO OUT THERE.

01:55PM 13 YOU WON'T SEE ANYTHING THAT SAYS, HEY, I DON'T THINK THIS
01:55PM 14 IS VALUABLE BEFORE THE CASE, RIGHT? IN FACT, WE SEE THE
01:56PM 15 OPPOSITE. I NEED TO DO IT. I'M OUT MARKETING TO CUSTOMERS
01:56PM 16 TELLING THEM. IT'S A MARKETING POINT -- WE SAW IT THERE -- I'M
01:56PM 17 THE SAME AS CISCO'S CLI.

01:56PM 18 AND THEN AGAIN, I DIDN'T TAKE TOO MUCH. YOU KNOW, IT
01:56PM 19 WASN'T THAT MUCH THAT I TOOK.

01:56PM 20 HOW CAN THAT BE SQUARED WITH GOING OUT AND TELLING PEOPLE
01:56PM 21 BEFORE THIS LAWSUIT WAS FILED, I TOOK IT ALL? I'M A DROP-IN
01:56PM 22 REPLACEMENT.

01:56PM 23 SO AS YOU ARE GOING THROUGH -- AND I APPRECIATE YOUR
01:56PM 24 TIME -- AS YOU ARE GOING THROUGH EVALUATING, PLEASE KEEP THOSE
01:56PM 25 THINGS IN MIND.

01:56PM 1 NOW WE ARE GOING TO HAVE EVIDENCE AND YOU ARE GOING TO HEAR
01:56PM 2 THAT AND I WILL HAVE A CHANCE TO TALK TO YOU AGAIN, BUT I
01:56PM 3 REALLY APPRECIATE YOUR ATTENTIVENESS. I APPRECIATE YOU BEING
01:56PM 4 HERE. I REALLY DO.

01:56PM 5 ALL RIGHT. SO THANK YOU VERY MUCH.

01:56PM 6 THE COURT: THANK YOU, MR. NELSON.

01:56PM 7 MR. VAN NEST.

01:56PM 8 MR. VAN NEST: THANK YOU, YOUR HONOR. I JUST NEED A
01:56PM 9 MOMENT TO SET UP.

01:56PM 10 THE COURT: OF COURSE.

01:56PM 11 MR. VAN NEST: AND MAYBE OUR JURORS CAN TAKE A
01:57PM 12 STRETCH.

01:57PM 13 THE COURT: IF YOU WANT TO STAND UP AND STRETCH,
01:57PM 14 THAT'S A GOOD THING. WE WILL TAKE A BREAK AFTER THIS OPENING
01:57PM 15 STATEMENT, IF YOU ARE ALL WONDERING.

01:57PM 16 (PAUSE IN PROCEEDINGS.)

01:57PM 17 MR. VAN NEST: ARE WE READY, YOUR HONOR?

01:57PM 18 THE COURT: WE SURE ARE.

01:57PM 19

01:57PM 20 **OPENING STATEMENT BY MR. VAN NEST**

01:57PM 21

01:57PM 22 MR. VAN NEST: THANK YOU, AND GOOD AFTERNOON,
01:57PM 23 EVERYONE.

01:57PM 24 AS YOU KNOW, MY NAME IS BOB VAN NEST, AND I'M VERY PROUD TO
01:57PM 25 BE HERE REPRESENTING ARISTA NETWORKS, ONE OF THE MOST

01:58PM 1 INNOVATIVE YOUNG TECHNOLOGY COMPANIES IN THE UNITED STATES
01:58PM 2 TODAY. THEY ARE THE DEFENDANT IN THE LAWSUIT AND I'M VERY
01:58PM 3 HAPPY TO BE HERE ON THEIR BEHALF.

01:58PM 4 I WANT TO JOIN MR. NELSON IN THANKING ALL OF YOU FOR BEING
01:58PM 5 HERE. WE KNOW NOT YOU ARE NOT VOLUNTEERS, BUT WE REALLY
01:58PM 6 APPRECIATE YOUR TAKING TIME OUT OF YOUR BUSY LIVES, ESPECIALLY
01:58PM 7 NOW WITH THE HOLIDAYS COMING UP, TO HELP US. THIS IS A VERY
01:58PM 8 IMPORTANT CASE, NOT ONLY FOR ARISTA AND CISCO, BUT FOR
01:58PM 9 TECHNOLOGY AND FOR INNOVATION IN GENERAL.

01:58PM 10 NOW, THIS LAWSUIT IS AN EFFORT BY AN OLDER ESTABLISHED
01:58PM 11 COMPANY WITH OLDER TECHNOLOGY TO PREVENT FAIR COMPETITION BY A
01:58PM 12 YOUNG NEW COMPANY WITH NEW TECHNOLOGY AND BETTER PRODUCTS.

01:58PM 13 THE ARISTA SWITCHES -- AND I HAVE AN ARISTA 7500 RIGHT
01:58PM 14 HERE -- WERE DESIGNED BY ARISTA ENGINEERS USING ARISTA
01:58PM 15 TECHNOLOGY, AND THEY SPENT YEARS DOING IT AND HUNDREDS OF
01:58PM 16 MILLIONS OF DOLLARS TO GET IT WHERE IT IS TODAY.

01:59PM 17 NOW, INSIDE THE SWITCH IS SOFTWARE, AND THE ARISTA SOFTWARE
01:59PM 18 IS MADE UP OF MILLIONS OF LINES OF SOURCE CODE WRITTEN BY
01:59PM 19 ARISTA ENGINEERS.

01:59PM 20 AND I WANT TO MAKE CLEAR RIGHT UP FRONT, THERE'S NO CLAIM
01:59PM 21 AT ALL THAT ANY OF THE SOFTWARE RUNNING THE SWITCH WAS COPIED.
01:59PM 22 AND THAT'S VERY IMPORTANT.

01:59PM 23 SO AS TO THE PRODUCT AND THE SOFTWARE, WHICH WAS WRITTEN BY
01:59PM 24 ARISTA ENGINEERS, THERE'S NO CLAIM WHATSOEVER THAT EVEN ONE
01:59PM 25 LINE OF THOSE MILLIONS OF LINES OF CODE WERE COPIED.

01:59PM 1 AND IT'S THAT SOFTWARE THAT WORKS TOGETHER WITH THE
01:59PM 2 HARDWARE THAT MAKES THE SWITCH RUN AND HAS GIVEN IT THE SUCCESS
01:59PM 3 IT'S HAD TODAY.

01:59PM 4 AND THE EVIDENCE IS GOING TO SHOW THAT WHEN ARISTA'S
01:59PM 5 SWITCHES CAME ON THE MARKET, WHEN THEY WERE FIRST LAUNCHED,
01:59PM 6 THEY WERE REVOLUTIONARY. THE SWITCHES WERE TEN TIMES FASTER,
02:00PM 7 EASIER FOR CUSTOMERS TO CUSTOMIZE, MORE RELIABLE, AND USE
02:00PM 8 ONE-FIFTH THE POWER OF ANY OF THE SWITCHES ON THE MARKET AT
02:00PM 9 THAT TIME.

02:00PM 10 AND THAT WAS A REVOLUTION. THAT OPENED UP A NEW MARKET.
02:00PM 11 IT OPENED UP A WHOLE NEW MARKET FOR WHAT WE CALL HIGH SPEED
02:00PM 12 NETWORKING IN THE CLOUD. CLOUD COMPUTING IS BEING ENABLED
02:00PM 13 INITIALLY BY ARISTA SWITCHES.

02:00PM 14 AND THAT'S WHY COMPANIES LIKE GOOGLE, FACEBOOK, NETFLIX,
02:00PM 15 TWITTER, MICROSOFT, THEY ARE ALL USING ARISTA SWITCHES TO
02:00PM 16 PERFORM COMPUTING IN THE CLOUD. IT'S BEEN A BIG DEAL, AND THE
02:00PM 17 LEADER THERE HAS BEEN ARISTA.

02:00PM 18 NOW, THERE'S ALSO NO DISPUTE THAT AS TO THE CLI, THE
02:00PM 19 COMMANDS -- AND THESE ARE SHORT, SIMPLE PHRASES, THEY ARE
02:00PM 20 MANUALLY TYPED INTO A TERMINAL TO COMMUNICATE WITH THE
02:00PM 21 SWITCH -- THERE'S NO QUESTION THAT THE ARISTA SWITCHES WERE
02:01PM 22 BUILT TO RECOGNIZE SOME OF THE SAME COMMANDS THAT CISCO USES.

02:01PM 23 THAT WASN'T DONE IN SECRET. THAT'S BEEN OPEN AND OUT
02:01PM 24 THERE. THE CLI IS PUBLIC. WHEN YOU PRODUCE A PRODUCT LIKE
02:01PM 25 THIS, EVERYONE CAN TELL WHAT THE CLI ARE. EVERYBODY KNEW THAT

02:01PM 1 BACK IN 2008 AND NO ONE SAID BOO.

02:01PM 2 THAT'S BECAUSE NOBODY, INCLUDING CISCO, THOUGHT THERE WAS
02:01PM 3 ANYTHING WRONG WITH USING THE SAME COMMANDS.

02:01PM 4 WHY IS THAT? CISCO REPEATEDLY PROMOTED ITS OWN CLI AS
02:01PM 5 INDUSTRY STANDARD, OR DE FACTO INDUSTRY STANDARD. THEY DID
02:01PM 6 THAT IN ENGINEERING DOCUMENTS, IN CUSTOMER PRESENTATIONS, IN
02:01PM 7 MARKETING MATERIALS, IN WHITE PAPERS. WE ARE GOING TO LOOK AT
02:01PM 8 THOSE IN JUST A FEW MINUTES.

02:01PM 9 BUT THEY WERE OUT THERE BROADCASTING THAT OUR CLI IS
02:01PM 10 INDUSTRY STANDARD, AND THEY WERE FULLY AWARE THAT OTHER
02:02PM 11 COMPANIES, COMPETITORS, DELL, HEWLETT-PACKARD, JUNIPER,
02:02PM 12 BROCADE, FORCE10, MANY WERE USING ALL THE SAME SETS OF
02:02PM 13 COMMANDS, MANY OF THE SAME COMMANDS, AND THEY TOO WERE CALLING
02:02PM 14 THEIR CLI INDUSTRY STANDARD.

02:02PM 15 CISCO SAID IT, EVERYONE ELSE SAID IT, AND ALL THE ARISTA
02:02PM 16 FOLKS THAT WERE AT CISCO AT THE TIME, THEY WERE AWARE OF THAT
02:02PM 17 TOO. CISCO PROMOTED ITS OWN SYSTEM THAT WAY AND THEY WERE
02:02PM 18 FULLY AWARE THAT EVERYBODY ELSE WAS DOING IT TOO.

02:02PM 19 NOW, THERE'S A GOOD REASON FOR THAT. NETWORKING REQUIRES
02:02PM 20 HAVING INDUSTRY STANDARDS THAT EVERYBODY AGREES TO USE. THE
02:02PM 21 SWITCHES MOVE DATA AROUND AMONG COMPUTERS AND SERVERS. AND
02:02PM 22 THOSE SWITCHES HAVE TO TALK TO EACH OTHER NO MATTER WHO MAKES
02:02PM 23 THEM. SO THE INDUSTRY AGREES ON STANDARDS. AND EVERYBODY
02:02PM 24 FOLLOWS THEM. THEY ARE CALLED PROTOCOLS.

02:03PM 25 MOST, IN FACT, THE VAST MAJORITY OF THE TERMS THAT CISCO

02:03PM 1 USES IN THE COMMANDS ARE TAKEN DIRECTLY FROM THOSE PROTOCOLS.
02:03PM 2 THEY ARE WORDS THAT NETWORKING ENGINEERS KNOW AND LEARN BECAUSE
02:03PM 3 THE INDUSTRY HAS AGREED TO USE THOSE TERMS, AND HAS USED THEM,
02:03PM 4 IN THEIR PROTOCOLS.

02:03PM 5 SO THE NETWORKING FOLKS, THE FOLKS THAT RUN THE NETWORKS,
02:03PM 6 THEY WANT TO LEARN A COMMON SET OF COMMANDS AND USE IT NO
02:03PM 7 MATTER WHOSE SWITCH THEY BUY. THEY WANT THE FREEDOM TO BUY
02:03PM 8 FROM CISCO, ARISTA, BROCADE, HP, AND OTHERS.

02:03PM 9 CISCO DOESN'T WANT THAT FREEDOM NOW. THEY ARE UNHAPPY WITH
02:03PM 10 THAT.

02:03PM 11 BUT THAT WAS THE REALITY AT THE TIME, AND THE NETWORK
02:03PM 12 ENGINEERS ALL INSISTED, I WANT THE SAME CLI, AND SO THEY HAD
02:03PM 13 IT.

02:03PM 14 THAT'S WHY, IN 2008 WHEN ARISTA LAUNCHED, CISCO DIDN'T
02:03PM 15 OBJECT. THEY DIDN'T COMPLAIN.

02:03PM 16 AND ALSO, THEY DIDN'T IGNORE. THEY WENT OUT AND THEY
02:04PM 17 BOUGHT ONE OF THESE. CISCO WENT OUT RIGHT AWAY AND BOUGHT A
02:04PM 18 SWITCH, JUST LIKE YOU WOULD EXPECT ANY GOOD COMPETITOR TO DO.
02:04PM 19 THEY WENT OUT, THEY BOUGHT IT, THEY ANALYZED IT, THEY LEARNED
02:04PM 20 RIGHT AWAY IT'S USING THE SAME CLI.

02:04PM 21 AND THEY ACTUALLY CREATED A TEAM TO COMPETE DIRECTLY WITH
02:04PM 22 ARISTA, A TIGER TEAM.

02:04PM 23 IT WASN'T UNTIL SIX YEARS LATER IN 2016, YEARS AFTER THEY
02:04PM 24 WERE AWARE OF ALL OF THIS AFTER THEIR EFFORTS TO COMPETE ON THE
02:04PM 25 MERITS WERE UNSATISFYING AND THEY WERE UNABLE TO KEEP UP, THEY

WERE UNABLE TO INNOVATE WITH ARISTA, THEN AND ONLY THEN DID THEY FILE THIS LAWSUIT CLAIMING FOR THE VERY FIRST TIME THAT THE USE OF THE CLI WAS A COPYRIGHT VIOLATION AND WAS WRONG.

SO THE FOLKS -- THE EVIDENCE I'M ABOUT TO REVIEW WITH YOU, AND WE WILL GO THROUGH IT STEP BY STEP, SHOW THAT ARISTA'S USE OF A CLI WAS DONE IN GOOD FAITH BY PEOPLE WHO WERE AWARE OF CISCO'S PRACTICES AND UNDERSTOOD THE CLI WERE FREE TO USE. IT WAS DONE OPENLY. THEY TALKED ABOUT IT. IT WASN'T A SECRET. IT WAS FULLY OUT THERE.

AND THEY DID NO HARM TO THE SO-CALLED CISCO CLI. IF CISCO IS BEHIND, IT'S BECAUSE THEY FAILED TO INNOVATE, NOT BECAUSE ARISTA IS USING THE SAME SET OF COMMANDS THAT EVERYBODY ELSE IN THE INDUSTRY IS USING.

AND JUDGE FREEMAN MENTIONED -- I KNOW SHE READ A LOT OF INSTRUCTIONS, BUT ONE OF THE INSTRUCTIONS SHE READ TOLD YOU THAT FAIR USE ALLOWS COPYING WITHOUT THE OWNER'S CONSENT UNDER CERTAIN CONDITIONS.

AND WHEN THAT COPYING IS LIMITED AND WHEN IT IS USED TO CREATE A BRAND-NEW TRANSFORMATIVE PRODUCT, THAT IS THE DEFINITION OF FAIR USE, AND THAT'S WHAT HAPPENED HERE.

SO LET ME START WITH THE KEY POINTS OF EVIDENCE THAT I EXPECT TO SHOW THIS AFTERNOON.

FIRST, I MENTIONED, AND WE WILL START THERE, THESE SWITCHES WERE DESIGNED FROM SCRATCH. THEY WEREN'T COPIED FROM CISCO. ARISTA'S INNOVATION HAS TRANSFORMED ETHERNET SWITCHES FOR THE

02:06PM 1 CLOUD. AND WE WILL TALK ABOUT WHAT THE CLOUD IS.

02:06PM 2 CISCO PROMOTED ITS OWN CLI AS AN INDUSTRY STANDARD. THE
02:06PM 3 SAME COMMANDS THEY NOW SAY THEY CAN PROTECT, THEY TOLD
02:06PM 4 EVERYBODY THEY ARE INDUSTRY STANDARD TERMS.

02:06PM 5 AND ARISTA'S USE OF THE CLI IS A FAIR USE ABSOLUTELY
02:06PM 6 CONSISTENT WITH INDUSTRY PRACTICE.

02:06PM 7 WE WILL SHOW YOU UP SIDE AND DOWN THAT THE REST OF THE
02:06PM 8 INDUSTRY HAS BEEN USING THE SAME SET OF COMMANDS FOR YEARS
02:06PM 9 WITHOUT ANY COMPLAINT FROM CISCO.

02:06PM 10 OKAY. LET'S START WITH ENTERPRISE NETWORKING. LET'S GO
02:06PM 11 BACK TO THE GOOD OLD DAYS.

02:06PM 12 YOU KNOW, IN AN OFFICE, OR I WILL SAY A HOSPITAL, OR A
02:06PM 13 CAMPUS, YOU HAVE A NETWORK. THE SWITCHES ARE WHAT TRANSMIT THE
02:06PM 14 INFORMATION AROUND AMONG THE COMPUTERS AND THEY ARE ALL
02:06PM 15 CONNECTED TO SERVERS. SO I MIGHT HAVE A SERVER RACK LIKE THE
02:07PM 16 ONE THERE ON THE LEFT WITH FOUR SERVERS IN IT, AND I MIGHT HAVE
02:07PM 17 A SWITCH.

02:07PM 18 AND IN THE OLD DAYS EVERYBODY HAD THEIR OWN SYSTEM.
02:07PM 19 EVERYBODY HAD THEIR OWN SET UP. IF YOU ARE IN AN OFFICE,
02:07PM 20 HOSPITAL, CAMPUS, WHATEVER.

02:07PM 21 THAT'S ALL DIFFERENT NOW. ARISTA'S SWITCHES WERE DESIGNED
02:07PM 22 FOR USE IN THE CLOUD.

02:07PM 23 COULD I HAVE THE NEXT SLIDE.

02:07PM 24 THERE'S THE CLOUD. WHAT'S THE CLOUD? THE CLOUD ARE LARGE
02:07PM 25 DATA CENTERS WITH MAYBE A HUNDRED THOUSAND SERVERS OR MORE.

02:07PM 1 HUNDRED THOUSAND SERVERS AND THOUSANDS OF SWITCHES.

02:07PM 2 AND THE CLOUD IS THERE SO THAT THOUSANDS OF CUSTOMERS CAN
02:07PM 3 BE SERVICED AT THE SAME TIME. NOT EVERYBODY HAS TO HAVE THEIR
02:07PM 4 OWN NETWORK OR THEIR OWN SERVERS. THEY ARE BUYING SERVICE IN
02:07PM 5 THE CLOUD AT THE SAME TIME.

02:07PM 6 SO FOLKS LIKE MICROSOFT, AMAZON, GOOGLE, THEY ARE ALL
02:07PM 7 OPERATING IN THE CLOUD. THEY MIGHT BE PROVIDING SERVICES TO
02:07PM 8 LOTS OF CUSTOMERS ALL AT THE SAME TIME. SO THAT'S LOTS AND
02:07PM 9 LOTS OF TRANSACTIONS.

02:08PM 10 HOW CAN THEY DO THAT? HOW CAN THEY DO THAT? THEY NEEDED
02:08PM 11 SOMETHING DIFFERENT. SOMETHING THAT CHANGED THE WAY THEY DID
02:08PM 12 BUSINESS.

02:08PM 13 THE ARISTA 7500, THAT'S WHAT I'VE GOT RIGHT HERE. AS I
02:08PM 14 SAID, WHEN IT CAME OUT IT WAS TEN TIMES FASTER. MORE RELIABLE.

02:08PM 15 AND WHEN YOU ARE RUNNING THOUSANDS OF CUSTOMER'S
02:08PM 16 TRANSACTIONS, YOU'VE GOT TO BE RELIABLE. YOU'VE GOT TO BE
02:08PM 17 SAFE. POWER EFFICIENT. POWER IS MONEY. WHEN YOU ARE RUNNING
02:08PM 18 THOUSANDS OF TRANSACTIONS, HOW MUCH POWER YOU USE IS A BIG
02:08PM 19 DEAL.

02:08PM 20 OPEN AND PROGRAMMABLE. WHAT DOES THAT MEAN? THEY WANTED
02:08PM 21 TO BUILD IT AS AN OPEN TYPE ARCHITECTURE. THEY USED SOMETHING
02:08PM 22 CALLED LINUX WHICH IS AN OPEN SOURCE SYSTEM THAT LOTS OF
02:08PM 23 TECHNOLOGISTS KNOW SO CUSTOMERS COULD BUILD ON TIME. THEY
02:08PM 24 WANTED TO HAVE A PLATFORM FOR INNOVATION SO THAT CUSTOMERS
02:08PM 25 COULD INNOVATE ON TOP OF THE DEVICE.

02:08PM 1 SO LET'S TAKE A LOOK. WE KNOW THAT WHEN GOOGLE AND APPLE
02:09PM 2 CAME OUT WITH SMART PHONES, THAT CHANGED CELL PHONE USE
02:09PM 3 FOREVER. IT'S A WHOLE DIFFERENT BALL GAME. TESLA IS DOING THE
02:09PM 4 SAME THING WITH CARS.

02:09PM 5 ARISTA SWITCHES ARE DOING THE SAME THING WITH THE NETWORK
02:09PM 6 BECAUSE THEY ARE TAKING IT TO A WHOLE DIFFERENT PLACE, A
02:09PM 7 BRAND-NEW TRANSFORMATIVE USE FOR THE CLI AND THE WHOLE
02:09PM 8 OPERATION.

02:09PM 9 WHAT AM I SHOWING HERE? THE KEY TO THE ARISTA SWITCH IS
02:09PM 10 THE OPERATING SYSTEM, THE EOS OPERATING SYSTEM. THAT'S THE
02:09PM 11 MILLIONS OF LINES OF SOURCE CODE. THEY ARE COMPLETELY
02:09PM 12 DIFFERENT FROM WHAT CISCO HAS.

02:09PM 13 AND YOU KNOW DARN WELL THAT THEY SCANNED IT CAREFULLY TO
02:09PM 14 SEE IF THEY COULD FIND ANY COPYING INSIDE. NONE.

02:09PM 15 THE ARISTA PRODUCT IS WRITTEN IN DIFFERENT PROGRAMMING
02:09PM 16 LANGUAGES, PYTHON, C++, TAC C. IOS IS WRITTEN IN THE C
02:09PM 17 PROGRAMMING LANGUAGE, AND THERE ISN'T ANY CLAIM AT ALL THAT ANY
02:09PM 18 OF THAT SOURCE CODE WAS COPIED, NOT ONE LINE.

02:10PM 19 HOW DID ARISTA DO IT? HARD WORK, TEN YEARS OF R&D,
02:10PM 20 HUNDREDS OF ENGINEERS. WE ARE A SMALL COMPANY, 14-, 1500
02:10PM 21 EMPLOYEES, SO THAT'S A LOT SMALLER THAN CISCO, BUT HUNDREDS OF
02:10PM 22 ENGINEERS ARE WORKING ON THE SOFTWARE. AND HUNDREDS OF
02:10PM 23 MILLIONS OF DOLLARS OVER THE YEARS.

02:10PM 24 IT TOOK THREE YEARS JUST TO GET THE PRODUCT TO THE MARKET,
02:10PM 25 AND THEN ANOTHER SEVEN TO GET IT WHERE IT IS TODAY.

02:10PM 1 SO ARISTA VERY PROUD OF THEIR CLIENTS. GOOGLE, FACEBOOK,
02:10PM 2 MICROSOFT, ALL THE SERVICES WE ARE USING, GOOGLE MAPS,
02:10PM 3 FACEBOOK, EVERYTHING THAT WE WANT TO HAVE HAPPEN FAST IS
02:10PM 4 HAPPENING BECAUSE THESE FOLKS HAVE CLOUD COMPUTING. EVEN THE
02:10PM 5 BANKS, THEY NEED TO BE FAST, NASDAQ AND THE NEW YORK STOCK
02:10PM 6 EXCHANGE, THEY NEED TO BE FAST AND RELIABLE TOO.

02:10PM 7 ALL RIGHT. WHAT ARE WE TALKING ABOUT? WHAT IS THE CLAIM
02:10PM 8 OF COPYING ABOUT?

02:10PM 9 IT'S ABOUT THE COMMAND-LINE INTERFACE. WHAT IS THAT? IT'S
02:10PM 10 THE SIMPLE PHRASES THAT THE NETWORK ENGINEERS TYPE MANUALLY
02:11PM 11 INTO THE SYSTEM.

02:11PM 12 HERE'S MY NETWORK ENGINEER. AND HE OR SHE WANTS TO NAME A
02:11PM 13 ROUTER. THAT MIGHT BE ONE THING THEY WANT TO DO. SO THEY GET
02:11PM 14 A PROMPT ON THE SCREEN. ROUTER CONFIG, ALL RIGHT.

02:11PM 15 YOU SEE THE BLINKING CURSOR. THEY TYPE IN A COMMAND, HOST
02:11PM 16 NAME, SAN JOSE 3805.

02:11PM 17 SO WHAT'S HAPPENING THERE. THE RED TEXT, THE HOST NAME IS
02:11PM 18 A COMMAND THAT SAYS CHANGE THE NAME OF THE SWITCH AND THE
02:11PM 19 SWITCH NAME, THE ROUTER NAME GETS CHANGED.

02:11PM 20 ALL WE ARE TALKING ABOUT IS THE COMMANDS. NOT HOW THE
02:11PM 21 TESTIMONY MAKES THE CHANGE, NOT THE SOFTWARE UNDER THE HOOD.
02:11PM 22 THAT'S ALL ORIGINAL ARISTA, JUST THAT VERY SIMPLE TYPED
02:11PM 23 COMMAND.

02:11PM 24 SO WHAT'S MY ANALOGY? SOME OF US REMEMBER THE GOOD OLD
02:11PM 25 DAYS OF YOUR STEREO TUNER. EVERYBODY HAD A TUNER WITH KNOBS ON

02:11PM 1 IT, AND THE KNOBS ALL HAD LABELS, RIGHT, INPUT, VOLUME,
02:12PM 2 BALANCE. ALL THE MANUFACTURES USE THE SAME LABELS FOR THE
02:12PM 3 KNOBS, BUT THE MANUFACTURERS COMPETED BASED ON HOW WELL THE
02:12PM 4 RECEIVER WORKED, HOW MUCH SOUND DOES IT PUT OUT, HOW CLEAR IS
02:12PM 5 THE SOUND, HOW GOOD IS IT?

02:12PM 6 THE SAME IS TRUE HERE. ALL WE ARE TALKING ABOUT WITH THESE
02:12PM 7 COMMANDS ARE THE LABELS, NOT EVEN THE KNOBS. THE KNOBS ARE
02:12PM 8 SOFTWARE CREATED BY ARISTA ORIGINAL FROM SCRATCH.

02:12PM 9 NOW, TODAY WE DON'T USE THE KNOBS SO MUCH. WE DON'T USE
02:12PM 10 THE TUNERS. BUT WE ALL USE REMOTES, AND THE SAME THING IS
02:12PM 11 TRUE. WE BUY A REMOTE BECAUSE IT HAS SOME BASIC LABELS ON IT,
02:12PM 12 RIGHT, ON, OFF, SAT, MUTE, SOMETIMES RECORD. BUT ALL THE
02:12PM 13 MANUFACTURERS USE THE SAME TYPE OF LABELS FOR THE BUTTONS.

02:12PM 14 AND YOU COMPETE ON WHAT'S IN THE TV SET. THAT'S WHY
02:12PM 15 SAMSUNG IS DIFFERENT FROM LG, IS DIFFERENT FROM GE, IS
02:12PM 16 DIFFERENT FROM EVERYBODY ELSE.

02:12PM 17 WHAT THEY ARE TALKING ABOUT, THE THING THEY CLAIM WAS
02:12PM 18 COPIED ARE THE LABELS ON THE REMOTE. THAT'S WHAT IT IS.

02:13PM 19 ARISTA'S LEADERSHIP, AND YOU WILL HEAR FROM A LOT OF ARISTA
02:13PM 20 FOLKS FOR SURE, JAYSHREE ULLAL AND ANDY BECHTOLSHEIM ARE BOTH
02:13PM 21 ENGINEERING LEADERS, BOTH ENGINEERS.

02:13PM 22 MS. ULLAL WAS A VERY SENIOR EXECUTIVE AT CISCO FOR MANY
02:13PM 23 YEARS, REPORTED DIRECTLY TO JOHN CHAMBERS. SHE RAN ONE OF THE
02:13PM 24 BIGGEST UNITS THERE. SHE WAS THERE FOR 15 YEARS. SHE LEFT IN
02:13PM 25 '08 FOR A NEW CHALLENGE AND WAS RECRUITED INTO ARISTA.

02:13PM 1 AND ANDY BECHTOLSHEIM IS ONE OF THE MOST PROMINENT
02:13PM 2 INNOVATORS IN THE VALLEY. HE WAS THE COFOUNDER OF SUN
02:13PM 3 MICROSYSTEMS. AFTER THAT HE WAS ONE OF THE VERY FIRST
02:13PM 4 INVESTORS IN GOOGLE. AFTER THAT HE FORMED A COMPANY THAT WAS
02:13PM 5 BOUGHT BY CISCO AND TOOK ONE OF THEIR MAIN PRODUCTS. AND
02:13PM 6 MR. BECHTOLSHEIM LEFT IN '04 AND EVENTUALLY FOUNDED ARISTA.

02:13PM 7 AND YOU ARE GOING TO MEET ARISTA'S ENGINEERING TEAM, TOO.
02:14PM 8 KEN DUDA, ADAM SWEENEY, HUGH HOLBROOK. THESE FOLKS ALL WORKED
02:14PM 9 AT CISCO TOO. THEY WERE WELL AWARE OF CISCO'S PRACTICES WITH
02:14PM 10 RESPECT TO CLI, THAT CISCO DIDN'T CARE, CISCO UNDERSTOOD THAT
02:14PM 11 EVERYONE WAS USING THE SAME COMMANDS.

02:14PM 12 AND THERE'S NO CLAIM THAT THEY TOOK ANYTHING. THE CLI ARE
02:14PM 13 PUBLIC. THEY ARE PUBLISHED. THEY ARE OUT THERE. THEY ARE NOT
02:14PM 14 SECRET.

02:14PM 15 AND WHILE I'M TALKING ABOUT ARISTA, LET ME REINTRODUCE OUR
02:14PM 16 CLIENT REPRESENTATIVE. SEAN CHRISTOFFERSON IS THE DEPUTY
02:14PM 17 GENERAL COUNSEL OF ARISTA AND MR. CHRISTOFFERSON WILL BE WITH
02:14PM 18 US THROUGHOUT THE TRIAL.

02:14PM 19 WHAT ARE YOU GOING TO HEAR FROM THIS LEADERSHIP GROUP, THEY
02:14PM 20 ARE GOING TO EXPLAIN WHY THE SWITCH AND THE CLI ARISTA USES ARE
02:14PM 21 REVOLUTIONARY. DIFFERENT ARCHITECTURE. SO THE THINGS RUN IN
02:14PM 22 PARALLEL AND THE SWITCHES ARE MORE RELIABLE.

02:14PM 23 BRAND-NEW OPERATING SYSTEM. FASTER, MORE EFFICIENT. OPEN
02:14PM 24 PLATFORM, LINUX. EVERYBODY CAN BUILD ON TOP OF IT.

02:15PM 25 CUSTOMERS LOVE THAT. THEY WANT TO BE ABLE TO DO THEIR OWN

02:15PM 1 THING. THESE ARE BIG, SOPHISTICATED CUSTOMERS, GOOGLE AND
02:15PM 2 FACEBOOK. THEY'VE GOT A LOT OF ENGINEERS TOO.

02:15PM 3 AND BRAND-NEW USES FOR THE CLI. THEY FULLY AUTOMATED THE
02:15PM 4 CLI. THEY WERE THE ONES, THE LEADERS IN DOING THAT TOO,
02:15PM 5 BECAUSE AS YOU CAN IMAGINE IN THE CLOUD AND HUNDREDS OF
02:15PM 6 THOUSANDS OF SERVERS, IT'S IMPRACTICAL TO TYPE THOSE IN ONE AT
02:15PM 7 A TIME. THAT'S ALL GOT TO BE DONE AUTOMATICALLY.

02:15PM 8 SO THEY CREATED TOOLS TO ALLOW PEOPLE TO USE THE CLI IN A
02:15PM 9 VERY NEW AND DIFFERENT WAY.

02:15PM 10 THE TIMELINE MEANS, LET'S TAKE A LOOK AT THAT, THAT ARISTA
02:15PM 11 HAS MANY FIRSTS. THEY STARTED IN '04, R&D STARTED SOON AFTER.
02:15PM 12 THAT'S CONTINUED TO TODAY. THEY HAD THE FIRST AND FASTER
02:15PM 13 48-PORT SWITCH AT TEN GIGABITS IN 2008.

02:15PM 14 IN 2010, THAT WAS THE REAL REVOLUTION, INDUSTRY-FIRST 380
02:16PM 15 PORT. PORTS ARE PORTS THAT YOU CAN CONNECT A SERVER TO. SO
02:16PM 16 THE MORE PORTS YOU HAVE, THE MORE VOLUME YOU CAN RUN.

02:16PM 17 THEY HAD A TEN GIGABIT 384 PORT HIGH SPEED SWITCH WHEN
02:16PM 18 OTHER FOLKS WERE TRYING TO GET TO 60.

02:16PM 19 THEN IN 2013, TWO THOUSAND PORTS, TEN GIGABITS PLUS.
02:16PM 20 PEOPLE WERE TRYING TO GET TO 100.

02:16PM 21 AND IN JUNE OF 2014, THE COMPANY WENT PUBLIC. FIRST,
02:16PM 22 FIRST, FIRST, FIRST. THEY WERE A LEADER.

02:16PM 23 NOW, THIS WASN'T UNKNOWN TO CISCO. CISCO DIDN'T IGNORE
02:16PM 24 THEM. TAKE A LOOK AT THE BOTTOM. YOU DIDN'T HEAR ANYTHING
02:16PM 25 ABOUT THIS. THEY BOUGHT A SWITCH IN 2008, CISCO DID. NOTHING

02:16PM 1 WRONG WITH THAT. THEY BOUGHT IT, THEY TOOK IT IN-HOUSE, THEY
02:16PM 2 STUDIED IT.

02:16PM 3 IN 2011 THEY SAID, WAIT A MINUTE, WE NEED A TIME TO FIGHT
02:16PM 4 THESE GUYS. THEY CREATED A TEAM AND PUT 20, 30 ENGINEERS ON IT
02:16PM 5 JUST TO COMPETE.

02:16PM 6 IN 2013 THEY SPENT A BILLION DOLLARS. THEY WEREN'T ABLE TO
02:17PM 7 DEVELOP ANYTHING IN-HOUSE, SO THEY WENT OUT AND ACQUIRED A
02:17PM 8 COMPANY WITH A PRODUCT THEY SAID WAS THE ARISTA KILLER.

02:17PM 9 AND IN DECEMBER OF 2014, JUST SIX MONTHS AFTER THE IPO,
02:17PM 10 WITHOUT ANY WARNING TO ARISTA, WITHOUT ANY REQUEST FOR A CEASE
02:17PM 11 AND DESIST, WITHOUT ANY DIALOG WHATSOEVER, THEY FILED THIS
02:17PM 12 LAWSUIT. BOOM.

02:17PM 13 NEXT SLIDE.

02:17PM 14 THIS IS AN INTERNAL DOCUMENT FROM CISCO. EVERYBODY
02:17PM 15 EXCHANGES THEIR DOCUMENTS. THIS IS AN INTERNAL DOCUMENT FROM
02:17PM 16 CISCO IN 2008 STUDYING THE ARISTA SWITCH.

02:17PM 17 WHAT DID THEY KNOW RIGHT UPFRONT? INDUSTRY STANDARD CLI.
02:17PM 18 THIS WAS FOUND IN CISCO'S FILES AND THEY DON'T DENY THAT THEY
02:17PM 19 GOT THE SWITCH. THEY STUDIED IT. THEY ANALYZED IT. THEY KNEW
02:17PM 20 WHAT THE CLI WAS AND, YET, THEY DID NOTHING.

02:17PM 21 OKAY. WE'VE TALKED ABOUT THE ARISTA DEVELOPMENT. WE'VE
02:17PM 22 TALKED ABOUT THE CLOUD AND ETHERNET. CISCO PROMOTED ITS CLI AS
02:18PM 23 AN INDUSTRY STANDARD.

02:18PM 24 CAN WE BACK THAT UP? YOU BET.

02:18PM 25 HERE'S A CUSTOMER PRESENTATION IN 2003. THE CISCO -- FROM

02:18PM 1 CISCO TO AT&T, CISCO IOS CLI -- THAT'S THE CLI WE ARE TALKING
02:18PM 2 ABOUT HERE -- IS THE CURRENT DE FACTO STANDARD. THIS IS WHAT
02:18PM 3 THEY WERE TELLING CUSTOMERS.

02:18PM 4 WHY? THE CUSTOMERS DON'T WANT TO HAVE TO LEARN A NEW
02:18PM 5 COMMAND LANGUAGE EVERY TIME THEY BUY A DIFFERENT SWITCH. SO
02:18PM 6 IT'S A BENEFIT FOR CISCO TO GIVE THEM COMFORT, YOU CAN LEARN IT
02:18PM 7 ONCE AND USE IT REPEATEDLY.

02:18PM 8 HERE'S ANOTHER ONE. 2009. THEY INTRODUCED A NEW PRODUCT,
02:18PM 9 THE NEXUS, THE COMMAND-LINE INTERFACE SIMILAR TO THAT OF CISCO
02:18PM 10 IOS. USES THE INDUSTRY STANDARD -- THIS IS CISCO'S WORDS --
02:18PM 11 IOS CLI TO MINIMIZE THE AMOUNT OF TIME NEEDED FOR OPERATORS TO
02:18PM 12 LEARN THE SYSTEM AND BECOME OPERATIONALLY PROFICIENT.

02:19PM 13 THAT'S A BENEFIT.

02:19PM 14 NEXT ONE.

02:19PM 15 THEY ACTUALLY PUBLISHED THE WHITE PAPER IN 2010. THIS IS A
02:19PM 16 PUBLIC PUBLISHED PAPER TO THE WHOLE NETWORKING INDUSTRY. THE
02:19PM 17 CISCO IOS CLI -- SAME ONE WE ARE TALKING ABOUT HERE -- HAS
02:19PM 18 ESSENTIALLY BECOME THE STANDARD FOR CONFIGURATION IN THE
02:19PM 19 NETWORKING INDUSTRY.

02:19PM 20 THAT WASN'T JUST CISCO THAT CALLED IT INDUSTRY STANDARD.
02:19PM 21 EVERYBODY ELSE DID TOO.

02:19PM 22 HERE'S JUNIPER, ONE OF THEIR BIG COMPETITORS. JUNIPER USES
02:19PM 23 MANY OF THE SAME COMMANDS THAT ARE AT ISSUE IN THIS LAWSUIT.
02:19PM 24 THE SYSTEM CLI USES AN INDUSTRY DE FACTO STANDARD LOOK AND FEEL
02:19PM 25 WHICH MAY BE FAMILIAR TO YOU.

02:19PM 1 YOU ARE GOING TO HEAR FROM JUNIPER AT ONE POINT IN THE
02:19PM 2 TRIAL WHEN WE GET OUR OPPORTUNITY.

02:19PM 3 DELL. NOW, YOU HEARD MR. NELSON MENTION 500 COMMANDS THAT
02:19PM 4 ARISTA USES. DELL'S SYSTEM USES 1600 OF THE SAME COMMANDS THAT
02:20PM 5 CISCO DOES. 1600. THREE TIMES.

02:20PM 6 HERE'S WHAT DELL SAYS ABOUT THEIRS. IT'S AN INDUSTRY
02:20PM 7 STANDARD COMMAND-LINE INTERFACE, WHICH ALLOWS NETWORK
02:20PM 8 ADMINISTRATORS TO UTILIZE EXISTING SWITCH CONFIGURATION SKILLS.
02:20PM 9 MANY FOLKS JUST WENT ON OUT AND SAID, WE ARE CISCO-LIKE, WE ARE
02:20PM 10 IOS-LIKE.

02:20PM 11 HERE'S THE NEXT ONE FROM FORCE10. THAT WAS A COMPETITOR
02:20PM 12 BOUGHT YEARS LATER BY DELL.

02:20PM 13 ALL FORCE10 SWITCHES OFFER A CISCO-LIKE CLI MAKING IT EASY
02:20PM 14 FOR ANY CCIE -- THAT'S SOMEONE TRAINED ON THE CISCO SWITCH
02:20PM 15 CLI -- TO MANAGE AND CONFIGURE A FORCE10 SWITCH.

02:20PM 16 BUT WHY WAS THIS HAPPENING? IT'S HAPPENING BECAUSE MOST
02:20PM 17 NETWORKS HAVE A MULTIPLE VENDOR SETUP, RIGHT? MOST NETWORKS,
02:20PM 18 SOME SWITCHES WORK, DO THINGS BETTER THAN OTHERS AT CERTAIN
02:20PM 19 THINGS. SO IT'S NOT UNCOMMON TO HAVE A NETWORK WITH ARISTA,
02:21PM 20 DELL, CISCO, HP, IBM. SO THE NETWORK OPERATORS WANT TO USE A
02:21PM 21 SINGLE COMMAND LANGUAGE. THEY DON'T WANT TO HAVE TO LEARN ONE
02:21PM 22 FOR EACH ONE.

02:21PM 23 AND GUESS WHAT? NETWORKING DEPENDS ON PROTOCOLS AND
02:21PM 24 STANDARDS. THESE SWITCHES HAVE TO TALK TO EACH OTHER, SO THEY
02:21PM 25 HAVE TO AGREE ON WHAT THE PROTOCOL, THE SET OF RULES WILL BE TO

02:21PM 1 COMMUNICATE.

02:21PM 2 THE VAST MAJORITY OF TERMS IN THE CISCO CLI, LIKE EVERYBODY
02:21PM 3 ELSE, ARE DRAWN DIRECTLY FROM THESE STANDARDS. IP, BGP, TERMS
02:21PM 4 WE WILL LOOK AT IN A MINUTE, TERMS THAT LOOK VERY UNFAMILIAR TO
02:21PM 5 US ARE FAMILIAR TO NETWORK ENGINEERS, NOT BECAUSE OF CISCO, BUT
02:21PM 6 BECAUSE THEY COME FROM PROTOCOLS THAT THE WHOLE INDUSTRY HAS
02:21PM 7 AGREED TO USE. THEY ARE THE NAMES AND TERMS OF FEATURES AND
02:21PM 8 PROTOCOLS THAT THE INDUSTRY HAS COME TO USE TOGETHER.

02:21PM 9 AND WE ASKED DR. JOHN BLACK, WHO IS A PROFESSOR OF COMPUTER
02:22PM 10 SCIENCE AT THE UNIVERSITY OF COLORADO -- I THINK HE'S HERE. IF
02:22PM 11 YOU ARE HERE, WILL YOU STAND UP? DR. BLACK.

02:22PM 12 HE SPENT 35 YEARS IN NETWORKING. HE HAS A PHD FROM DAVIS
02:22PM 13 HERE IN CALIFORNIA.

02:22PM 14 AND HE CONDUCTED A THOROUGH EVALUATION OF THE INDUSTRY AND
02:22PM 15 ALL THE INDUSTRY PLAYERS, AND I WILL GIVE YOU A LITTLE PREVIEW
02:22PM 16 OF WHAT YOU ARE GOING TO SEE. HERE'S THE NEXT SLIDE.

02:22PM 17 SHOW VERSION, JUST THOSE TWO WORDS, THAT'S ONE OF THE
02:22PM 18 COMMANDS CISCO IS TRYING TO PROTECT IN THIS LAWSUIT.

02:22PM 19 AS YOU CAN SEE, THEY USE IT, ARISTA USES IT, BUT EVERY
02:22PM 20 OTHER MAJOR PLAYER USES IT. HB, JUNIPER, BROCADE, ALCATEL,
02:22PM 21 EXTREME.

02:22PM 22 NOT ONLY THAT, 15 OTHER VENDORS THAT I DON'T HAVE ROOM ON
02:22PM 23 THE SCREEN TO USE TO DISPLAY USE THE SAME ONE.

02:22PM 24 HERE'S ANOTHER ONE, BOOT SYSTEM. BOOT SYSTEM. THEY ARE
02:22PM 25 SAYING BOOT SYSTEM IS OWNED BY CISCO.

02:22PM 1 WELL, YOU CAN SEE, EVERY MAJOR PLAYER AND OTHER 12 OTHER
02:23PM 2 VENDORS USE THAT.

02:23PM 3 CLOCK SET. THAT'S A COMMAND THEY SAY IS CREATIVE AND
02:23PM 4 UNIQUE TO CISCO. EVERYONE ELSE USES THAT TOO.

02:23PM 5 THIS IS WHY THEY WERE CALLING THEIR SYSTEMS INDUSTRY
02:23PM 6 STANDARD. THAT'S HOW THEY REFERRED TO THEIR SYSTEMS, INDUSTRY
02:23PM 7 STANDARD. THERE'S 16 OTHER VENDORS THAT USE THAT.

02:23PM 8 IP ADDRESS. IP STANDS FOR INTERNET PROTOCOL. THAT'S A
02:23PM 9 VERY SPECIFIC AND LESS KNOWN INDUSTRY PROTOCOL AND ALL THE
02:23PM 10 NETWORK FOLKS KNOW WHAT IT MEANS.

02:23PM 11 ADDRESS IS A DEFINED TERM IN THE INTERNET PROTOCOL.

02:23PM 12 IP ADDRESS IS A VERY LOGICAL PHRASE THAT EVERY NETWORK
02:23PM 13 ENGINEER COULD UNDERSTAND. 18 OTHER VENDORS USE THAT ONE.

02:23PM 14 SHOW IP INTERFACE. IP, INTERNET PROTOCOL, INTERFACE IS
02:23PM 15 ANOTHER DEFINED TERM, DEFINED IN THE PROTOCOL. SHOW HAS BEEN
02:23PM 16 AROUND FOR DECADES. SHOW IP INTERFACE. THERE'S 16 OTHER
02:23PM 17 VENDORS THAT USE THAT.

02:23PM 18 SHOW IP ROUTE.

02:23PM 19 I WILL SLOW DOWN, SUMMER.

02:23PM 20 WE CAN GO ON FOR A LONG TIME. WE CAN GO ON FOR A LONG TIME
02:24PM 21 BECAUSE THESE ARE ALL PART OF INDUSTRY PROTOCOL TERMS.

02:24PM 22 LET'S LOOK AT THIS ONE. NOW, WHAT DO I MEAN? INDUSTRY
02:24PM 23 GROUPS COME TOGETHER AND THEY CREATE PROTOCOLS SO THAT
02:24PM 24 NETWORKING CAN HAPPEN AND SWITCHES CAN TALK TO ONE ANOTHER.

02:24PM 25 HERE'S SOME EXAMPLES. I SAY ACRONYM BECAUSE THAT'S WHAT

02:24PM 1 YOU ARE GOING TO HEAR DURING TESTIMONY. AN ACRONYM IS JUST AN
02:24PM 2 ABBREVIATION. IT'S SHORT FOR SOMETHING ELSE. IP STANDS FOR
02:24PM 3 INTERNET PROTOCOL. BGP, NOT MANY OF US HAVE HEARD OF THAT, BUT
02:24PM 4 IT'S A STANDARD PROTOCOL THAT FOLKS KNOW, BORDER GATEWAY. SPF,
02:24PM 5 OPEN SHORTEST PATH FIRST. PTP, PRECISION TIME PROTOCOL, AND SO
02:24PM 6 ON.

02:24PM 7 THESE TERMS, ALTHOUGH THEY ARE UNFAMILIAR TO US, ARE
02:24PM 8 FAMILIAR TO NETWORK FOLKS. AND THESE ARE THE TERMS THAT THE
02:24PM 9 CISCO PEOPLE PUT IN THE CLI.

02:24PM 10 HERE ARE SOME OTHER EXAMPLES. THE IEEE IS THE INSTITUTE OF
02:24PM 11 ELECTRICAL -- EXCUSE ME -- OF ELECTRONICS AND ELECTRICAL
02:25PM 12 ENGINEERS. IT'S AN INDUSTRY GROUP. IEEE IS THE ENGINEERING
02:25PM 13 INTERNET TASK FORCE.

02:25PM 14 THESE ARE ALL TERMS YOU WILL SEE IN THE COMMANDS THAT WILL
02:25PM 15 LOOK NEW TO YOU, BUT THEY COME FROM THE INDUSTRY ITSELF.

02:25PM 16 NOW, DR. BLACK HAS DONE AN ANALYSIS OF THESE AND HE'S GOT A
02:25PM 17 COLOR CODED CHART. HE'S LOOKED AT EVERY SINGLE COMMAND THEY
02:25PM 18 ARE COMPLAINING OF. THE GRAY MEANS IT'S BEEN USED FOR YEARS BY
02:25PM 19 LOTS OF FOLKS BEFORE CISCO, THE GREEN MEANS IT'S DIRECTLY FROM
02:25PM 20 AN INDUSTRY STANDARD, AND THE BLUE MEANS IT'S A COMMON INDUSTRY
02:25PM 21 TERM.

02:25PM 22 SO LET'S TAKE AN EXAMPLE OF A COMMAND. CLEAR IP, ARP.
02:25PM 23 CLEAR HAS BEEN AROUND FOR YEARS, IP STANDS FOR INTERNET
02:25PM 24 PROTOCOL, AND ARP STANDS FOR ADDRESS RESOLUTION PROTOCOL. ALL
02:25PM 25 STANDARD TERMS IN NETWORKING.

02:25PM 1 BGP, SAME THING. THAT'S BORDER GATEWAY PROTOCOL.

02:25PM 2 IGMP, THAT'S INTERNET GROUP MANAGEMENT PROTOCOL. AND

02:26PM 3 GROUP, THAT'S A DEFINED TERM WITHIN THE IGMP STANDARD.

02:26PM 4 NOW, THIS ISN'T TOO SURPRISING BECAUSE CISCO SET IT UP TO

02:26PM 5 USE INDUSTRY STANDARD TERMS. THEY TOLD THEIR DESIGNERS, DON'T

02:26PM 6 BE CREATIVE. USE STUFF THAT EVERYBODY ALREADY KNOWS.

02:26PM 7 THIS DOCUMENT THAT WE GOT IN DISCOVERY, WE WEREN'T AWARE OF

02:26PM 8 IT, IS THEIR GUIDELINES TO THEIR ENGINEERS FOR WRITING

02:26PM 9 COMMANDS. THIS IS THEIR INTERNAL SET OF GUIDELINES.

02:26PM 10 WHEN NAMING A COMMAND, PICK NAMES THAT WOULD BE FAMILIAR TO

02:26PM 11 PEOPLE IN THE INDUSTRY. COMMANDS SHOULD BE SELF-EXPLANATORY.

02:26PM 12 THE IDEA IS DON'T CREATE SOMETHING NEW, USE WHAT'S OUT

02:26PM 13 THERE NOW AND THAT FOLKS ALREADY KNOW.

02:26PM 14 NOW, IT CERTAINLY WASN'T A SECRET TO CISCO THAT FOLKS WERE

02:26PM 15 USING THE SAME COMMANDS AND ALL CALLING THEM INDUSTRY STANDARD.

02:26PM 16 YOU ARE GOING TO HEAR FROM TERRY SLATTERY IN A DAY OR TWO.

02:27PM 17 HE'S NOT AN EMPLOYEE AT CISCO, BUT HE WAS A CONTRACTOR THAT

02:27PM 18 WORKED ON SOME OF THE COMMANDS. AND HE WROTE AN ARTICLE IN

02:27PM 19 2007 ABOUT THE CLI AT CISCO. HE SAID, OTHER COMPANIES ARE

02:27PM 20 EMULATING IT. NETWORK ENGINEERS TYPICALLY BECOME EXPERTS IN

02:27PM 21 THE CISCO CLI FIRST, BECAUSE CISCO IS THE BIG DOG IN THE

02:27PM 22 MARKET, THEN MOVE TO OTHER VENDOR GEAR SO IT MAKES SENSE FOR

02:27PM 23 COMPANIES TO EMULATE IT.

02:27PM 24 NOW, YOU WERE TOLD DURING CISCO'S OPENING THAT MANY OF THE

02:27PM 25 ARISTA FOLKS CAME FROM CISCO, AND THAT'S CERTAINLY TRUE. MANY

02:27PM 1 OF THEM CAME FROM CISCO. THEY ARE ALL GOING TO TESTIFY THAT
02:27PM 2 WHEN THEY WERE AT CISCO, THEY WERE WELL AWARE THAT OTHERS WERE
02:27PM 3 USING THE SAME COMMANDS AND THAT CISCO MADE A CONSCIENCE CHOICE
02:27PM 4 NOT TO PURSUE ANYBODY BECAUSE HAVING AN INDUSTRY STANDARD
02:27PM 5 COMMAND THAT THEY COULD CALL THEIRS WAS A POSITIVE THING.
02:27PM 6 THAT'S WHY THERE WAS NO SECRET MADE WHEN ARISTA LAUNCHED ITS
02:27PM 7 PRODUCT.

02:27PM 8 HERE'S THE PATENT THAT CISCO PUBLISHED BACK IN -- APPLIED
02:28PM 9 FOR IN '05, PUBLISHED IN 2011. PUBLIC STATEMENT, MANY
02:28PM 10 COMPANIES NOW STRIVE TO SUPPORT SOME VARIATION ON IOS CLI IN
02:28PM 11 THEIR ROUTING, AND MANY CONSUMERS HAVE INVESTED IN THAT SUPPORT
02:28PM 12 DEVELOPING SCRIPTS.

02:28PM 13 THEY WERE WELL AWARE OF ALL OF THIS.

02:28PM 14 NOW, LET ME PAUSE A MINUTE AND TALK ABOUT HUAWEI. YOU
02:28PM 15 HEARD ABOUT A HUAWEI LAWSUIT. THE HUAWEI LAWSUIT WAS VERY
02:28PM 16 DIFFERENT. HUAWEI WAS ACCUSED OF COPYING SOURCE CODE INSIDE
02:28PM 17 THEIR SWITCH, NOT ALL THE SOURCE CODE, BUT A LOT OF IT.

02:28PM 18 SO TO THE EXTENT THERE WAS CLI CLAIMS THERE, THEY WERE
02:28PM 19 THROWN IN AS AN AFTERTHOUGHT.

02:28PM 20 AND GUESS WHAT? HUAWEI WAS RESOLVED IN 2003. ALL THESE
02:28PM 21 THINGS WE ARE LOOKING AT WERE SUBSEQUENT TO THAT. FOR A DECADE
02:28PM 22 AND A HALF AFTER THAT, CISCO HAS BEEN OUT THERE CONTINUING TO
02:28PM 23 PROMOTE THE CLI'S STANDARD AND STANDING BY WHILE EVERYONE ELSE
02:28PM 24 IN THE INDUSTRY USED IT.

02:28PM 25 HUAWEI WAS THE ONE TIME THEY SUED, AND IT'S NOT BECAUSE OF

02:29PM 1 THE CLI, IT'S BECAUSE SOURCE CODE WAS COPIED.

02:29PM 2 LET'S GO TO OUR NEXT BULLET, WHICH IS ARISTA'S USE OF THE
02:29PM 3 CLI IS A FAIR USE CONSISTENT WITH INDUSTRY PRACTICE.

02:29PM 4 JUDGE FREEMAN READ YOU A BRIEF INTRODUCTION, AND I DON'T
02:29PM 5 WANT TO GET INTO TOO MUCH DEPTH HERE. BUT THE POINT IS THAT
02:29PM 6 SOMEONE WHO IS NOT THE OWNER OF THE COPYRIGHT CAN USE
02:29PM 7 COPYRIGHTED MATERIAL UNDER SOME CIRCUMSTANCES WITHOUT THE
02:29PM 8 CONSENT OF THE OWNER, AND THE OWNER CAN'T PREVENT THAT IF THE
02:29PM 9 USE IS A FAIR USE.

02:29PM 10 THAT'S PART OF THE COPYRIGHT STATUTE. IT'S JUST AS MUCH OF
02:29PM 11 THE LAW AS COPYRIGHT ITSELF.

02:29PM 12 AND YOU ALSO HEARD DURING THE BRIEF READING THAT THERE ARE
02:29PM 13 A SERIES OF FACTORS. THE PURPOSE AND CHARACTER OF THE USE,
02:29PM 14 THAT'S ASKING, IS IT JUST A KNOCK OFF OR DID THEY CREATE
02:29PM 15 SOMETHING NEW AND DIFFERENT? IF YOU KNOCK OFF SOMEONE'S CD OR
02:30PM 16 MOVIE AND SELL IT, THAT'S NOT FAIR USE. WE ALL KNOW THAT.
02:30PM 17 PLAGIARISM, NOT FAIR USE.

02:30PM 18 BUT TAKING A SMALL PART OF SOMETHING AND CREATING SOMETHING
02:30PM 19 NEW AND DIFFERENT, THAT'S FAIR USE.

02:30PM 20 THE NATURE OF THE WORK MEANS IS IT LITERARY LIKE A POEM OR
02:30PM 21 PIECE OF ART, OR IS IT FUNCTIONAL AND INFORMATIONAL? COPYRIGHT
02:30PM 22 PROTECTS LITERARY WORKS AT THE HIGHEST END, LIKE POEMS, MOVIES,
02:30PM 23 PLAYS.

02:30PM 24 FUNCTIONAL THINGS LIKE COMPUTER PROGRAMS, COMMANDS,
02:30PM 25 INFORMATION, LESS PROTECTED.

02:30PM 1 THE AMOUNT USED, WE WILL LOOK AT THAT IN A MINUTE. DID YOU
02:30PM 2 TAKE A LOT OR A LITTLE?

02:30PM 3 THE NUMBER OF COMMANDS BEING USED IN THE ARISTA SWITCH ARE
02:30PM 4 LESS THAN THREE PERCENT OF ALL THE COMMANDS IN CISCO'S IOS.
02:30PM 5 LESS THAN THREE PERCENT. 500, ACCORDING TO THEM, OUT OF 16,000
02:30PM 6 OR MORE.

02:30PM 7 THE EFFECT OF THE USE ON THE MARKET FOR THE CLI. THE
02:31PM 8 QUESTION THERE IS, IS YOUR USE OF THE COMMANDS WHAT'S CAUSING
02:31PM 9 HARM IF THERE'S HARM BEING CAUSED AT ALL TO CISCO?

02:31PM 10 CISCO'S FAILURE TO INNOVATE IS WHAT'S CAUSING THEM TO FALL
02:31PM 11 BEHIND. PEOPLE ARE NOT BUYING THIS BECAUSE OF THE CLI. THEY
02:31PM 12 ARE BUYING IT BECAUSE IT'S MUCH, MUCH BETTER OF A PRODUCT.
02:31PM 13 ENGINEERED BETTER, BETTER PERFORMANCE, BETTER PRICE POINT,
02:31PM 14 BETTER EVERYTHING REALLY.

02:31PM 15 AND SO IN ORDER TO SHOW THAT THE USE IS TRANSFORMATIVE, YOU
02:31PM 16 HAVE TO SHOW THAT YOU MADE SOME DIFFERENCE AND YOU CREATED
02:31PM 17 SOMETHING NEW AND DIFFERENT WITH A FURTHER PURPOSE.

02:31PM 18 SO LET'S LOOK AT OUR NEXT SLIDE.

02:31PM 19 YOU ARE GOING TO HEAR FROM THE ENGINEERS AT ARISTA THAT
02:31PM 20 THEY CHANGED EVERYTHING. THEY BUILT FROM SCRATCH. THEY DIDN'T
02:31PM 21 LIKE THE WAY THE CISCO SYSTEM WORKED AND THEY THOUGHT IT WAS
02:31PM 22 OLD SCHOOL, AND TO GET IN THE CLOUD THEY HAD TO HAVE SOMETHING
02:31PM 23 NEW.

02:31PM 24 SO THEY BUILT SOMETHING WITH AN ENTIRELY NEW ARCHITECTURE,
02:32PM 25 WITH AN ENTIRELY NEW OPERATING SYSTEM, WITH AN ENTIRELY NEW

02:32PM 1 BASE, THE LINUX CORE, WHICH COULD BE PROGRAMMED INDIVIDUALLY BY
02:32PM 2 CUSTOMERS.

02:32PM 3 AND THIS IS SOMETHING THEY GOT SOMETHING FASTER, MORE
02:32PM 4 RELIABLE, POWER EFFICIENT, OPEN AND PROGRAMMABLE.

02:32PM 5 AND NONE OF THESE PERFORMANCE BENEFITS COME FROM USING THE
02:32PM 6 CLI, NONE. THE CLI IS INCIDENTAL TO THAT. THESE PERFORMANCE
02:32PM 7 BENEFITS COME FROM THE SOFTWARE AND THE HARDWARE TOGETHER.

02:32PM 8 AND GUESS WHAT? THEY TRANSFORMED THE CLI TOO.

02:32PM 9 ON THE LEFT WE SAW OUR FAMILIAR NETWORK ENGINEER, AND HE OR
02:32PM 10 SHE IS INDIVIDUALLY ENTERING COMMANDS FOR EACH SWITCH.

02:32PM 11 THAT CAN'T HAPPEN IN THE CLOUD WITH A HUNDRED THOUSAND
02:32PM 12 SERVERS AND THOUSANDS OF SWITCHES. YOU HAVE TO AUTOMATE, AND
02:32PM 13 ARISTA FIGURED OUT A WAY TO DO THAT TOO.

02:32PM 14 YOU ARE GOING TO HEAR ABOUT THESE MANAGEMENT TOOLS, EAPI IS
02:32PM 15 ONE. ZERO TOUCH PROVISIONING, WHERE THE SYSTEM SETS ITSELF UP
02:33PM 16 AND RUNS ITSELF BASED ON PROGRAMS WRITTEN BY THE CUSTOMER. SO
02:33PM 17 THE CLI ARE USED, BUT THEY ARE IN A DIFFERENT CONTEXT. THEY
02:33PM 18 ARE WITHIN A TOOL THAT FULLY AUTOMATES THEM FOR USE IN THE
02:33PM 19 CLOUD.

02:33PM 20 AND THAT'S WHY, AS YOU WILL HEAR, THERE HAS BEEN PRAISE NOT
02:33PM 21 JUST FOR ARISTA AS A COMPANY, BUT FOR THIS PRODUCT.

02:33PM 22 NOW, THIS PRODUCT HAS BEEN PRAISED THROUGHOUT INDUSTRY AS
02:33PM 23 ONE OF THE BEST, BEST OF INTEROP, BEST OF NETWORK WORLD.

02:33PM 24 AND THEY LOOK AT EVERYBODY, THEY COMPARE ARISTA TO
02:33PM 25 EVERYBODY, AND THEY ARE THE ONES THAT HAVE COME UP WITH THE

02:33PM 1 CONCLUSION THAT, HEY, THIS IS NUMBER ONE. THAT'S THE HALLMARK
02:33PM 2 OF TRANSFORMATION.

02:33PM 3 HELP DESCRIPTIONS. YOU HEARD A LITTLE BIT ABOUT THE HELP
02:33PM 4 DESCRIPTIONS. THEY ARE NOTHING MORE THAN SIMPLE PHRASES USED
02:33PM 5 TO DESCRIBE THE COMMANDS. THEY ARE NOT THE SOURCE CODE. THEY
02:33PM 6 ARE NOT THE PROGRAM CODE. THEY ARE DESCRIPTIONS THAT A NETWORK
02:34PM 7 OPERATOR CAN LOOK TO.

02:34PM 8 AND SO, AGAIN, THESE ARE VERY FUNCTIONAL THINGS, ALMOST
02:34PM 9 TRIVIAL, AND WHAT THEY ARE COMPLAINING ABOUT IS A TINY, TINY
02:34PM 10 PORTION OF ALL OF THE THOUSANDS OF HELP COMMANDS IN THE CISCO
02:34PM 11 SYSTEM.

02:34PM 12 LET'S LOOK AT THE CLI COMMANDS. THEY SAID 500. THERE
02:34PM 13 ARE -- THEY ARE COMPLAINING ABOUT 400 IN THE IOS SYSTEM. THEY
02:34PM 14 HAVE SOME OTHER OPERATING SYSTEMS IN PLAY. SO THEY ARE
02:34PM 15 COMPLAINING ABOUT 440 IN IOS. THERE'S 16,000 IN IOS. 16,000.
02:34PM 16 SO THE 400 IS LESS THAN THREE PERCENT.

02:34PM 17 THE FOLKS AT ARISTA BUILT THEIR SWITCH TO RECOGNIZE THE
02:34PM 18 COMMANDS THAT THEY THOUGHT WOULD BE NECESSARY BACK IN THE EARLY
02:34PM 19 DAYS OF ENTERPRISE MANAGEMENT.

02:34PM 20 THEY'VE ADDED THOUSANDS OF THEIR OWN COMMANDS ON TOP OF
02:34PM 21 THOSE 400, BECAUSE OF ALL THE NEW FUNCTIONALITY AND NEW
02:35PM 22 TECHNOLOGY IN THE ARISTA SWITCH, THE 400 REPRESENT A VERY SMALL
02:35PM 23 PORTION OF THE COPYRIGHTED WORK.

02:35PM 24 TECHNICAL MANUALS. YOU HEARD A STATEMENT BRIEFLY ABOUT
02:35PM 25 TECHNICAL MANUALS. LET ME TALK ABOUT THAT FOR JUST A MINUTE.

02:35PM 1 HERE'S AN EXAMPLE OF WHAT THEY ARE COMPLAINING ABOUT.

02:35PM 2 HERE'S ONE OF THE TECHNICAL MANUALS THEY SAY WAS COPIED,
02:35PM 3 500-SOME PAGES.

02:35PM 4 NOW, USUALLY ENGINEERS DON'T PRINT THESE OUT, THEY LOOK AT
02:35PM 5 THEM ONLINE.

02:35PM 6 WHAT'S THEIR COMPLAINT? THAT'S IT RIGHT THERE. OUT OF
02:35PM 7 THESE 500 PAGES, THEY ARE ACTUALLY HERE COMPLAINING ABOUT THOSE
02:35PM 8 TWO LINES THAT THEY SAY WERE PLAGIARIZED FROM THIS MANUAL.

02:35PM 9 CISCO TAKES ANY FORM OF PLAGIARISM VERY SERIOUSLY, AS ANY
02:35PM 10 TECH COMPANY DOES. SO WHEN THEY LEARNED THAT EVEN THESE TWO
02:35PM 11 LINES AND A FEW LINES IN OTHER MANUALS WERE COPIED, THEY
02:35PM 12 INVESTIGATED, THEY CHANGED THE MANUALS, THEY ASKED THE EMPLOYEE
02:36PM 13 TO LEAVE, BECAUSE ARISTA TAKES COPYING VERY SERIOUSLY.

02:36PM 14 BUT MY POINT IS THIS IS REALLY TRIVIAL IN THE SCHEME OF
02:36PM 15 THINGS, IF THAT'S WHAT THEY ARE HERE COMPLAINING ABOUT IS THE
02:36PM 16 MANUALS.

02:36PM 17 AND FINALLY, IT'S NOT THE USE OF THE CLI THAT IS CAUSING
02:36PM 18 ANY HARM TO CISCO. THEIR INTERNAL E-MAILS SHOW THAT THEY ARE
02:36PM 19 LOSING BECAUSE THEY FAILED TO INNOVATE. HERE'S AN E-MAIL FROM,
02:36PM 20 INTERNALLY, ONE OF THE CISCO EMPLOYEES, SAYING FACEBOOK'S
02:36PM 21 POSITION IS THAT CISCO IS BEHIND THE CURVE AND IS ON TARGET TO
02:36PM 22 BECOME IRRELEVANT. IRRELEVANT. THAT'S GOT NOTHING TO DO WITH
02:36PM 23 THE CLI.

02:36PM 24 SAME THING WITH MICROSOFT. CISCO, WE HAVE FAILED TO --
02:36PM 25 THIS IS CISCO'S WORDS, NOT OURS, NOT EVEN MICROSOFT -- CISCO

02:36PM 1 SAYING WE FAILED TO DELIVER CRITICAL FEATURES FOR MICROSOFT FOR
02:36PM 2 THE PAST FIVE MONTHS OF THEM ASKING REPEATEDLY.

02:36PM 3 ONE OF THE HALLMARKS OF TRANSFORMATIVE USE IS NOT DOING
02:37PM 4 HARM TO THE ORIGINAL COPYRIGHTED WORK.

02:37PM 5 THE USE BY ARISTA OF THE SAME COMMANDS EVERYBODY ELSE USES
02:37PM 6 IS NOT WHAT HAS CAUSED THEM TO BE IN THE CLOUD. AND ANY IMPACT
02:37PM 7 THEY'VE HAD ON CISCO IS BECAUSE CISCO FAILED TO KEEP UP AND
02:37PM 8 INNOVATE, AS THESE E-MAILS AND MANY, MANY MORE THAT YOU WILL
02:37PM 9 SEE DURING THE TRIAL DEMONSTRATE.

02:37PM 10 LET ME SPEND A COUPLE OF MINUTES ON THE PATENT. IT'S
02:37PM 11 REALLY A PRETTY SMALL PART OF THE CASE, BUT I DO WANT TO COVER
02:37PM 12 IT BRIEFLY.

02:37PM 13 A PATENT IS DIFFERENT FROM COPYRIGHT. NOW, WE ARE NOT
02:37PM 14 TALKING ABOUT SPECIFIC WORDS.

02:37PM 15 COPYRIGHT IS ABOUT SPECIFIC WORDS. THIS IS ABOUT
02:37PM 16 INVENTIONS, BUT IT'S ALSO SPECIFIC. THEY HAVE A PATENT THAT
02:37PM 17 PROTECTS ONLY A PARTICULAR WAY OF DOING THINGS, AND THE PATENT
02:37PM 18 HERE THEY ARE TALKING ABOUT IS A PATENT ON HOW THE COMMANDS ARE
02:37PM 19 PROCESSED.

02:37PM 20 LET'S LOOK AT THE NEXT SLIDE.

02:37PM 21 SO, THIS IS A LITTLE TRITE, BUT IT MAKES THE POINT. YOU
02:37PM 22 DON'T GET A PATENT ON THE WHOLE UNIVERSE. YOU GET A PATENT ON
02:37PM 23 A SPECIFIC WAY, SPECIFIC PROPERTY, A SPECIFIC WAY OF PROCESSING
02:38PM 24 COMMANDS.

02:38PM 25 SO CISCO MAY HAVE A PATENT ON THE CORNER THERE, BUT IF

02:38PM 1 ARISTA AND HP AND DELL ARE DOING IT DIFFERENTLY, THERE'S NO
02:38PM 2 INFRINGEMENT. AND IN ORDER TO SHOW THAT SOMEONE IS INFRINGING,
02:38PM 3 YOU'VE GOT TO SHOW THAT EVERY REQUIRED ELEMENT OF YOUR PATENT
02:38PM 4 IS BEING USED.

02:38PM 5 SO LET'S ASSUME I'VE GOT A PATENT ON A SOCCER BALL, AND MY
02:38PM 6 ELEMENTS OF MY PATENT, MY REQUIREMENTS ARE THAT IT'S MADE OF
02:38PM 7 LEATHER, STITCHED TOGETHER, FILLED WITH AIR, AND ROUND.

02:38PM 8 ALL RIGHT. YOU COME UP WITH A FOOTBALL AND I SAY YOU'RE
02:38PM 9 INFRINGING MY SOCCER PATENT.

02:38PM 10 OKAY, YOUR FOOTBALL, IT IS MADE OF LEATHER, STITCHED
02:38PM 11 TOGETHER, FILLED WITH AIR, BUT AH-HA, NOT ROUND, OBLONG. NO
02:38PM 12 INFRINGEMENT.

02:38PM 13 WHY? EVERY ELEMENT MUST BE PRESENT IN ORDER TO PROVE
02:38PM 14 INFRINGEMENT.

02:38PM 15 AND WE WILL SHOW IN THE EVIDENCE THAT THE WAY IN WHICH
02:38PM 16 ARISTA'S SWITCHES PROCESS COMMANDS IS FUNDAMENTALLY DIFFERENT
02:39PM 17 THAN WHAT THEIR PATENT REQUIRES.

02:39PM 18 LET'S LOOK AT OUR ONE SLIDE.

02:39PM 19 THEIR PATENT HAS A VERY SPECIFIC REQUIREMENT THAT EVERY
02:39PM 20 WORD IN THE COMMAND HAS TO BE ASSOCIATED WITH A COMMAND ACTION
02:39PM 21 VALUE. IT'S GOT TO BE 1-TO-1. IN THEIR SYSTEM, EVEN IF YOU
02:39PM 22 GET SOME OF THE WORDS WRONG, THE COMMAND WORKS.

02:39PM 23 IN ARISTA'S SYSTEM, THAT'S NOT HOW IT WORKS. THERE ISN'T A
02:39PM 24 COMMAND VALUE ASSIGNED TO EVERY WORD, AND SO THE SYSTEM
02:39PM 25 OPERATES IN A FUNDAMENTALLY DIFFERENT WAY, AND WE WILL SHOW

02:39PM 1 THAT THROUGH THE TESTIMONY OF ARISTA ENGINEERS.

02:39PM 2 AND AGAIN, THERE WILL BE EXPERTS TESTIFYING ABOUT THAT ON
02:39PM 3 BOTH SIDES.

02:39PM 4 SO LET ME COME BACK TO MY KEY POINTS, WHICH ARE THAT THESE
02:39PM 5 SWITCHES WERE DESIGNED FROM SCRATCH AND THERE'S NO CLAIM THAT
02:39PM 6 ANY OF THE SOURCE CODE INSIDE WAS COPIED. THEY HAVE
02:39PM 7 TRANSFORMED THE ETHERNET SWITCHING AND MADE THE CLOUD POSSIBLE.

02:39PM 8 CISCO PROMOTED ITS OWN CLI AS INDUSTRY STANDARD AND,
02:39PM 9 THEREFORE, ARISTA'S USE OF THE CLI IS A FAIR USE CONSISTENT
02:40PM 10 WITH INDUSTRY PRACTICE.

02:40PM 11 CISCO HAS FAILED TO INNOVATE, AND ARISTA HAS LED THE
02:40PM 12 INDUSTRY INTO THE CLOUD.

02:40PM 13 NOW, BEFORE I SIT DOWN, I WANT TO DO TWO THINGS. I WANT TO
02:40PM 14 REINTRODUCE MY TEAM VERY BRIEFLY. YOU ARE GOING TO BE HEARING
02:40PM 15 FROM SEVERAL LAWYERS ON BEHALF OF ARISTA. BRIAN FERRALL, AND
02:40PM 16 DAVID SILBERT, LIZZY MCCLOSKEY AND RYAN WONG, AND
02:40PM 17 AJAY KRISHNAN AND MICHAEL KWUN WILL ALL BE EXAMINING WITNESSES
02:40PM 18 AS WE GO ON THROUGH THE NEXT COUPLE OF WEEKS.

02:40PM 19 I WILL ALSO ASK YOU ONE MORE THING AND THAT IS, KEEP AN
02:40PM 20 OPEN MIND. DON'T BE FOOLED BY SNIPPETS OF E-MAILS OR PORTIONS
02:40PM 21 OF TESTIMONY TAKEN OUT OF CONTEXT, BECAUSE CISCO HAS THE BURDEN
02:40PM 22 OF PROOF. THEY GO FIRST, AND WE WON'T HAVE AN OPPORTUNITY TO
02:40PM 23 PRESENT OUR CASE UNTIL THEY ARE DONE. SO WE WON'T EVEN BEGIN
02:40PM 24 PRESENTING OUR CASE UNTIL NEXT WEEK.

02:40PM 25 SO IT'S VERY CRITICAL TO ARISTA AND THE PROCESS THAT YOU

02:41PM 1 KEEP AN OPEN MIND AS YOU LISTEN TO THE TESTIMONY THIS WEEK
02:41PM 2 UNTIL WE GET A CHANCE.

02:41PM 3 AND WE ARE REALLY LOOKING FORWARD TO PRESENTING OUR
02:41PM 4 EMPLOYEES, OUR ENGINEERS, OUR LEADERSHIP, OUR DOCUMENTS, OUR
02:41PM 5 EVIDENCE WHEN WE GET OUR OPPORTUNITY TO DO THAT NEXT WEEK.

02:41PM 6 AND THANKS AGAIN, LADIES AND GENTLEMEN OF THE JURY, FOR
02:41PM 7 BEING HERE TO HELP US. WE REALLY APPRECIATE IT.

02:41PM 8 THANK YOU, YOUR HONOR

02:41PM 9 THE COURT: THANK YOU, MR. VAN NEST.

02:41PM 10 ALL RIGHT. LET'S TAKE A BREAK BEFORE WE CALL OUR FIRST
02:41PM 11 WITNESS. IT'S A GOOD TIME TO STRETCH. WE ARE GOING TO COME
02:41PM 12 BACK AT FIVE MINUTES TO 3:00.

02:41PM 13 (WHEREUPON A RECESS WAS TAKEN.)

02:59PM 14 THE COURT: WE ARE BACK ON THE RECORD AND ALL OF OUR
02:59PM 15 JURORS ARE PRESENT AND OUR LAWYERS AND PARTIES ARE HERE.

03:00PM 16 MR. NELSON, I'M GOING TO TURN TO YOU FOR THE PRESENTATION
03:00PM 17 OF YOUR CASE. ARE YOU GOING TO CALL YOUR FIRST WITNESS?

03:00PM 18 MR. NELSON: WE ARE.

03:00PM 19 THE COURT: AND WHO WILL THAT BE?

03:00PM 20 MR. NELSON: IT WILL BE MS. CHRISTINE BAKAN.

03:00PM 21 THE COURT: ALL RIGHT.

03:00PM 22 MS. BAKAN, IF YOU WOULD COME FORWARD TO THE WITNESS STAND,
03:00PM 23 PLEASE AND STAND TO BE SWORN.

03:00PM 24 CHRISTINE BAKAN,

03:00PM 25 BEING CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF,

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:00PM 1 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS
03:00PM 2 FOLLOWS:

03:00PM 3 THE WITNESS: YES.

03:00PM 4 THE CLERK: PLEASE BE SEATED.

03:00PM 5 IF YOU WOULD STATE YOUR NAME AND SPELL YOUR LAST NAME FOR
03:00PM 6 THE RECORD.

03:00PM 7 THE WITNESS: CHRISTINE BAKAN. B-A-K-A-N.

03:00PM 8 MR. NELSON: YOU HAVE YOUR --

03:00PM 9 THE COURT: I DO.

03:00PM 10 MR. NELSON: OKAY. THANK YOU, YOUR HONOR.

03:00PM 11

03:00PM 12 **DIRECT EXAMINATION BY MR. NELSON**

03:00PM 13

03:00PM 14 BY MR. NELSON:

03:00PM 15 Q. PLEASE GO AHEAD AND INTRODUCE YOURSELF TO THE LADIES AND
03:00PM 16 GENTLEMEN OF THE JURY.

03:00PM 17 A. MY NAME IS CHRISTINE BAKAN. I WORK AT CISCO SYSTEMS. I'M
03:00PM 18 A SENIOR DIRECTOR OF PRODUCT MANAGEMENT WITHIN THE ENTERPRISE
03:01PM 19 NETWORKING GROUP.

03:01PM 20 Q. ALL RIGHT. SO CAN YOU JUST TELL US A LITTLE BIT ABOUT YOUR
03:01PM 21 EMPLOYER, PLEASE?

03:01PM 22 A. WELL, CISCO SYSTEMS WAS ORIGINALLY FOUNDED IN CALIFORNIA.
03:01PM 23 WE ARE THE LEADER IN THE NETWORKING SPACE. WE PROVIDE
03:01PM 24 SWITCHING PRODUCTS, ROUTING PRODUCTS, AS WELL AS SECURITY
03:01PM 25 PRODUCTS THAT ESSENTIALLY SECURE THE INTERNET. SO THE SWITCHES

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

AND ROUTERS THAT ESSENTIALLY POWER THE INTERNET.

WE ALSO PROVIDE LOTS OF DIFFERENT PRODUCTS, WHICH IS
TELECOMMUNICATIONS PRODUCTS, TELECONFERENCING SYSTEMS. YOU MAY
HAVE HEARD OF WEBEX, FOR EXAMPLE, WHICH IS ANOTHER ONE OF OUR
PRODUCTS.

AND WE HAVE A VARIETY OF DIFFERENT PRODUCTS WITHIN THE
PORTFOLIO.

Q. NOW, LET'S MOVE BACKWARD AND TELL US A LITTLE BIT ABOUT
YOURSELF. CAN YOU TELL US WHAT YOUR EDUCATIONAL BACKGROUND IS,
PLEASE.

A. SURE. I WENT TO A LOCAL UNIVERSITY HERE IN NORTHERN
CALIFORNIA. I WENT TO UC BERKELEY. I GRADUATED WITH A COLLEGE
DEGREE IN MOLECULAR BIOLOGY.

DURING THAT TIME I ALSO WORKED AS AN ENGINEER IN THE
COMPUTER SCIENCE DEPARTMENT WORKING FOR SEVERAL PROFESSORS ON A
RESEARCH PROJECT FOR SEVERAL YEARS, WHICH WAS FROM 1992 TO
1995.

AND SEVERAL YEARS AFTER THAT I WENT BACK TO RECEIVE MY
DEGREE IN BUSINESS ADMINISTRATION FROM STANFORD UNIVERSITY.

Q. SO YOU MENTIONED YOU WERE WORKING ON A RESEARCH PROJECT
WITH SEVERAL PROFESSORS S WHILE YOU WERE AT BERKELEY.

A. YES.

Q. CAN YOU TELL US A LITTLE BIT ABOUT THAT?

A. SO THOSE WERE RESEARCH PROJECTS RELATING TO OPTICAL
CHARACTER RECOGNITION SYSTEMS, AS WELL AS IMAGE PROCESSING

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:02PM 1 SYSTEMS. ESSENTIALLY BUILDING ARTIFICIAL INTELLIGENCE-BASED
03:02PM 2 SYSTEMS THAT COULD BETTER RECOGNIZE OPTICAL, ESSENTIALLY
03:02PM 3 CHARACTERS, TEXT, INFORMATION ON A PIECE OF PAPER, AS WELL AS
03:02PM 4 IMAGES THAT YOU COULD CAPTURE THROUGH SATALITE PHOTOS OR
03:02PM 5 DIGITAL PHOTOS, ET CETERA.

03:02PM 6 Q. AND WHAT TIMEFRAME IS THIS WE ARE TALKING ABOUT?

03:03PM 7 A. THIS IS BACK IN 1992 TO 1995.

03:03PM 8 Q. NOW LET'S TALK A LITTLE BIT ABOUT YOUR EMPLOYMENT HISTORY.

03:03PM 9 CAN YOU TELL US YOUR FIRST POSITION, FIRST JOB AFTER YOUR
03:03PM 10 DEGREE, ANYWAY?

03:03PM 11 A. SURE. SO AFTER BERKELEY I WORKED AT ERNST & YOUNG, WHICH
03:03PM 12 IS A MANAGEMENT CONSULTING TECHNOLOGY COMPANY. AND WHILE I WAS
03:03PM 13 AT ERNST & YOUNG, I WORKED WITH A VARIETY OF HIGH-TECH
03:03PM 14 COMPANIES, SUCH AS HEWLETT-PACKARD, AS WELL AS GENERAL
03:03PM 15 ELECTRIC -- SOME OF THESE ARE WELL-KNOWN COMPANIES -- AND
03:03PM 16 ESSENTIALLY HELPING THEM BUILD TECHNOLOGY PRODUCTS, TECHNOLOGY
03:03PM 17 DEVELOPMENTS.

03:03PM 18 Q. AND CAN YOU JUST GIVE US A LITTLE BIT OF FLAVOR ON THAT?
03:03PM 19 WHAT KIND OF CONSULTING TECHNOLOGY DEVELOPMENT WERE YOU DOING?

03:03PM 20 A. SO, FOR EXAMPLE, AT HEWLETT-PACKARD WE WERE BUILDING
03:03PM 21 FINANCIAL PROCESSING SYSTEMS. SO WE WERE PART OF ESSENTIALLY
03:03PM 22 CREATING ESSENTIALLY DATA MANAGEMENT SYSTEMS.

03:03PM 23 I WAS PART OF A PROJECT BUILDING DATA MANAGEMENT SYSTEMS
03:03PM 24 FOR A FINANCIAL MANAGEMENT SOFTWARE AT HEWLETT-PACKARD.

03:04PM 25 AND AT GENERAL ELECTRIC, THEY BUILD A LOT OF AUTOMATIVE

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:04PM 1 SYSTEMS, WHETHER IT'S BASICALLY EQUIPMENT THAT ARE USED IN
03:04PM 2 HOSPITALS OR EQUIPMENT TO SERVICE EVEN AIRLINES, AND ALL THOSE
03:04PM 3 SYSTEMS NEEDED MANAGEMENT SYSTEMS TO ESSENTIALLY OPERATE ALL OF
03:04PM 4 THOSE TECHNOLOGIES.

03:04PM 5 SO AGAIN, I WAS PART OF BUILDING TECHNOLOGIES TO HELP DATA
03:04PM 6 MANAGEMENT OF ALL THOSE PRODUCTS.

03:04PM 7 Q. SO THEN AFTER YOUR TIME AT ERNST & YOUNG, WHAT DID YOU DO?

03:04PM 8 A. SO AFTER ERNST & YOUNG, I JOINED ORACLE CORPORATION, THIS
03:04PM 9 IS IN 1997, AND I BECAME PART OF ORACLE'S GROUP THAT FOCUSED ON
03:04PM 10 DATABASES AND APS, ESSENTIALLY APPLICATIONS, THAT ALSO WORK ON
03:04PM 11 TOP OF THE DATABASE.

03:04PM 12 Q. AND HOW LONG WERE YOU THERE WITH ORACLE?

03:04PM 13 A. SO I WAS AT ORACLE FROM 1997 TO 2005, SO ALMOST EIGHT
03:05PM 14 YEARS. DURING THAT TIME, I ROSE FROM AN ENGINEER TO AN
03:05PM 15 ARCHITECT.

03:05PM 16 I BECAME A DIRECTOR OF DEVELOPMENT. I RAN A TEAM THAT
03:05PM 17 BUILDS LOTS OF DIFFERENT TECHNOLOGIES, ONE OF WHICH, FOR
03:05PM 18 EXAMPLE, INCLUDED SECURING DATABASE TECHNOLOGIES BETTER SO THAT
03:05PM 19 ESSENTIALLY INFORMATION THAT ARE STORED IN THE DATABASES,
03:05PM 20 WHETHER IT'S PERSONAL INFORMATION, SUCH AS OUR SOCIAL SECURITY
03:05PM 21 NUMBERS, INFORMATION SUCH AS YOUR TELEPHONE NUMBERS, THINGS
03:05PM 22 THAT YOU REALLY DON'T WANT TO GET COMPROMISED, HAVE COMPROMISED
03:05PM 23 IN THE DATABASE ARE BETTER SECURED, WHETHER IT'S FOR USING
03:05PM 24 DATABASE IN THE INTERNET OR IN THE CLOUD, FOR EXAMPLE.

03:05PM 25 Q. SO YOU USED A COUPLE OF TERMS REGARDING YOUR POSITIONS

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:05PM 1 THERE, "ENGINEER" AND "ARCHITECT." CAN YOU EXPLAIN TO ME --

03:05PM 2 A. SO THE ENGINEER IS BASICALLY SOMEONE WHO BUILDS THE

03:05PM 3 SOFTWARE CODE, DESIGNS THE CODE, ALSO JUST CREATES THE CODE

03:05PM 4 ITSELF. SO I WROTE CODE.

03:05PM 5 AND ALSO AS AN ARCHITECT I HELPED OVERSEE THE DESIGN OF

03:06PM 6 CODE AND DEVELOPMENT OF SOFTWARE WITH A GROUP OF OTHER

03:06PM 7 ENGINEERS.

03:06PM 8 Q. NOW, AFTER YOUR TIME AT ORACLE, WHAT DID YOU DO NEXT?

03:06PM 9 A. SO AFTER ORACLE I JOINED ANOTHER SOFTWARE COMPANY NAMED VMC

03:06PM 10 SOFTWARE. WE WERE ALSO BASED HERE LOCALLY OUT OF SAN JOSE. I

03:06PM 11 RAN A RESEARCH AND DEVELOPMENT ORGANIZATION. I WAS THE VICE

03:06PM 12 PRESIDENT OF RESEARCH AND DEVELOPMENT. AND ESSENTIALLY THE

03:06PM 13 TECHNOLOGIES WE BUILT WERE ESSENTIALLY TO AUTOMATE THE SERVER

03:06PM 14 ENVIRONMENTS, ALSO TO MANAGE NETWORK ENVIRONMENTS.

03:06PM 15 SO THESE WERE ESSENTIALLY MANAGEMENT PRODUCTS FOR VARIOUS

03:06PM 16 DIFFERENT TECHNOLOGIES THAT CORPORATIONS USE.

03:06PM 17 Q. AND THEN AFTER THAT, WHAT DID YOU DO?

03:06PM 18 A. AFTER VMC SOFTWARE, I JOINED CISCO. SO I JOINED CISCO BACK

03:06PM 19 IN 2013.

03:06PM 20 AND AT CISCO SYSTEMS I AM IN CHARGE OF ESSENTIALLY

03:06PM 21 PRIORITIZING, IDENTIFYING AS WELL AS PRIORITIZING CAPABILITIES

03:07PM 22 THAT OUR CUSTOMERS USE THE MOST.

03:07PM 23 BECAUSE OUR CUSTOMERS ARE LONG-TIME USERS OF CISCO

03:07PM 24 PRODUCTS, THEY HAVE BEEN LOYAL CUSTOMERS OF OURS FOR MANY

03:07PM 25 YEARS, DECADES LONG, FOR EXAMPLE.

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:07PM 1 AND ONE OF OUR JOBS IS -- ONE OF MY JOBS IS TO MAKE SURE

03:07PM 2 THAT THOSE CUSTOMERS ARE HAPPY, THEY'RE SATISFIED USING OUR

03:07PM 3 PRODUCTS, THEY ARE ABLE TO GET THEIR DESIRES HEARD, AND THAT WE

03:07PM 4 PRIORITIZE THOSE NEEDS AND BUILD THEM INTO OUR PRODUCTS.

03:07PM 5 Q. NOW, DO YOU HAVE A FORMAL JOB TITLE AT CISCO?

03:07PM 6 A. YES. MY FORMAL JOB TITLE IS SENIOR DIRECTOR OF PRODUCT

03:07PM 7 MANAGEMENT.

03:07PM 8 Q. SO CAN YOU JUST DESCRIBE FOR US GENERALLY WHAT KINDS OF

03:07PM 9 THINGS YOU DO, DAY TO DAY?

03:07PM 10 A. YES. SO, AGAIN, WE WORK WITH CUSTOMERS, MY TEAM AND

03:07PM 11 MYSELF, WE WORK DAILY TO UNDERSTAND CUSTOMERS'S NEEDS THROUGH,

03:08PM 12 FOR EXAMPLE, SPEAKING WITH THEM DIRECTLY. WE MEET WITH THEM IN

03:08PM 13 PERSON OR THROUGH CONFERENCE CALLS. WE ARRANGE MEETINGS TO

03:08PM 14 MEET WITH THEM AT THEIR LOCATION SO WE UNDERSTAND BETTER HOW

03:08PM 15 THEY USE THE PRODUCTS WITHIN THEIR ENVIRONMENTS.

03:08PM 16 AND WE ALSO, FOR EXAMPLE, RUN SURVEYS. BECAUSE SOMETIMES

03:08PM 17 WE CAN'T REACH EVERY SINGLE CUSTOMER, OR MAYBE NOT EVEN OUR

03:08PM 18 CUSTOMERS THAT ALSO MAY BE POTENTIAL CUSTOMERS IN THE FUTURE.

03:08PM 19 SO WE RUN SURVEYS AND INTERVIEWS BEYOND EVEN THE CUSTOMERS THAT

03:08PM 20 WE HAVE DIRECT CONTACT WITH.

03:08PM 21 SO THOSE ARE EXAMPLES OF HOW WE ESSENTIALLY ARE ABLE TO

03:08PM 22 IDENTIFY REALLY NEW CAPABILITIES, NEW INNOVATIONS THAT NEED TO

03:08PM 23 GO INTO OUR PRODUCTS.

03:08PM 24 Q. SO WHY IS IT THAT YOU WANT TO LEARN HOW THE CUSTOMERS ARE

03:08PM 25 USING THE PRODUCTS IN THEIR ENVIRONMENT THEN?

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:08PM 1 A. BECAUSE WE HAVE TO BE THE NUMBER ONE LEADER IN THE SPACE.

03:08PM 2 I MEAN, WE ARE THE NUMBER ONE LEADER IN THE SPACE AND WE ARE

03:08PM 3 DEFINITELY NOT RESTING ON OUR LAURELS AT ALL. WE ARE VERY

03:09PM 4 VIGILANT ABOUT RETAINING OUR NUMBER ONE POSITION. WE WANT TO

03:09PM 5 BE NUMBER ONE LEADERS IN NETWORKING AND SECURITY, IN

03:09PM 6 TELECONFERENCING, WEBEX SYSTEMS, COMMUNICATION SYSTEMS,

03:09PM 7 ET CETERA, ET CETERA. SO WE HAVE VERY BIG AMBITIONS AND

03:09PM 8 ASPIRATIONS TO CONTINUE TO LEAD IN THE INDUSTRY.

03:09PM 9 Q. SO YOU MENTIONED YOUR INTERACTION WITH THE CUSTOMERS. CAN

03:09PM 10 YOU GIVE US SOME EXAMPLES OF SOME OF THESE CUSTOMERS?

03:09PM 11 A. SURE. SO IT RANGES ANYWHERE FROM, LET'S SAY, HEALTH CARE

03:09PM 12 PROVIDERS TO EDUCATIONAL ORGANIZATIONS. SO KAISER PERMANENTE,

03:09PM 13 WHICH IS ALSO A LOCAL PROVIDER HERE IN THE AREA,

03:09PM 14 KAISER PERMANENTE ACTUALLY USES CISCO NETWORKING EQUIPMENT TO

03:09PM 15 CONNECT THEIR MEDICAL STUDIES THAT ARE IN THEIR HOSPITALS THAT

03:09PM 16 ARE ESSENTIALLY ARE CRITICAL CARE SYSTEMS.

03:09PM 17 FOR EXAMPLE, THEY KEEP PATIENTS ALIVE. AND THOSE DEVICES

03:09PM 18 ARE CONNECTED TO THE NETWORK, SO THOSE SYSTEMS ARE NOT GOING

03:09PM 19 DOWN. THEY ARE COMMUNICATING CONSISTENTLY. SO ESSENTIALLY

03:10PM 20 THOSE ARE UP AND RUNNING.

03:10PM 21 THOSE ARE URGENT CARE TYPE SYSTEMS, THEY ARE CRITICAL,

03:10PM 22 CRITICAL SYSTEMS. AND THE NETWORK ESSENTIALLY PROVIDES

03:10PM 23 CONNECTIVITY TO THOSE SYSTEMS.

03:10PM 24 ANOTHER EXAMPLE WOULD BE APPLE. APPLE IS ACTUALLY A LARGE

03:10PM 25 USER OF CISCO NETWORKING EQUIPMENT. SO IF YOU GO TO EVERY

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:10PM 1 SINGLE APPLE STORE ANYWHERE IN THE WORLD, IF YOU WALK INTO THE
03:10PM 2 STORE AND YOU ARE CONNECTING TO THEIR WI-FI NETWORK, IT'S ALL
03:10PM 3 POWERED THROUGH CISCO WI-FI NETWORK.

03:10PM 4 ANOTHER EXAMPLE WOULD BE THE LOS ANGELES UNIFIED SCHOOL
03:10PM 5 DISTRICT, THAT'S THE SCHOOL DISTRICT I WENT TO. IT'S ONE OF
03:10PM 6 THE LARGEST SCHOOL DISTRICTS IN THE INDUSTRY.

03:10PM 7 AND IT'S A PUBLIC SCHOOL SYSTEM, AND ESSENTIALLY CISCO
03:10PM 8 NETWORKING EQUIPMENT CONNECTS THE STUDENTS AND THE TEACHERS TO
03:10PM 9 BE ABLE TO GET ACCESS TO THE INTERNET.

03:10PM 10 Q. SO YOU'VE TALKED ABOUT SOME OF THE CISCO PRODUCTS. I WANT
03:10PM 11 TO FOCUS ON A COUPLE OF THOSE FOR THIS CASE. WE'VE HEARD
03:11PM 12 SOMETHING ABOUT THIS.

03:11PM 13 SO SWITCHES, NETWORK SWITCHES, LET'S START THERE. OKAY?

03:11PM 14 A. SURE.

03:11PM 15 Q. CAN YOU TELL US GENERALLY WHAT A NETWORK SWITCH IS?

03:11PM 16 A. SURE. A NETWORK SWITCH SIMPLY IS BASICALLY A
03:11PM 17 HARDWARE-BASED DEVICE THAT ESSENTIALLY ALLOWS COMPUTERS WITHIN
03:11PM 18 A LOCAL NETWORK, WHICH IS BASICALLY A SPECIFIC LOCATION THAT
03:11PM 19 THE VARIOUS DIFFERENT COMPUTERS ARE CO-LOCATED IN.

03:11PM 20 SO, FOR EXAMPLE, THIS BUILDING COULD BE ESSENTIALLY A LOCAL
03:11PM 21 NETWORK WHERE THE COMPUTERS ARE IN FRONT OF YOU, THE COMPUTERS
03:11PM 22 THAT ARE IN FRONT OF THE VARIOUS DIFFERENT FOLKS IN THE ROOM,
03:11PM 23 AS WELL AS THE PRINTERS YOU MIGHT SEE, THOSE ARE CONNECTED ALL
03:11PM 24 TOGETHER TO COMMUNICATE WITH EACH OTHER THROUGH A SWITCH OR SET
03:11PM 25 OF SWITCHES.

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:11PM 1 SO IF YOU SEND A PRINT JOB TO A PRINTER THAT'S WITHIN YOUR
03:11PM 2 SWITCH NETWORK, THOSE PRINT JOBS ESSENTIALLY DON'T HAVE TO GO
03:11PM 3 TO SOME OTHER LOCATION, DON'T HAVE TO GO TO AMAZON OR GOOGLE TO
03:11PM 4 ESSENTIALLY PRINT THAT JOB. IT JUST BASICALLY PRINTS THAT JOB
03:11PM 5 THROUGH A SWITCH THAT'S IN YOUR LOCATION WITHIN THE BUILDING
03:12PM 6 Q. AND WE'VE HEARD A LITTLE BIT ABOUT ROUTERS. CAN YOU TELL
03:12PM 7 ME THE DISTINCTION BETWEEN THE TWO?

03:12PM 8 A. SURE. SO A SWITCH, AGAIN, IS JUST WITHIN A PARTICULAR
03:12PM 9 NETWORK.

03:12PM 10 A ROUTER CONNECTS MULTIPLE NETWORKS. SO IF YOU CAN IMAGINE
03:12PM 11 THIS BUILDING IS CONNECTED THROUGH A SET OF SWITCHES, OR MAYBE
03:12PM 12 ONE SWITCH.

03:12PM 13 ANOTHER BUILDING THAT MAY BE, LET'S SAY, IN SOUTHERN
03:12PM 14 CALIFORNIA, THAT'S ANOTHER, LET'S SAY, FEDERAL COURTHOUSE, IF
03:12PM 15 THOSE TWO COURTHOUSES NEED TO ESSENTIALLY COMMUNICATE THROUGH
03:12PM 16 E-MAIL, IF ONE JUDGE NEEDS TO E-MAIL ANOTHER JUDGE IN A
03:12PM 17 DIFFERENT COURTHOUSE, ESSENTIALLY THAT COMMUNICATION GOES
03:12PM 18 THROUGH A ROUTER THAT CONNECTS THE TWO NETWORKS TOGETHER.

03:12PM 19 Q. SO I WOULD LIKE YOU TO TURN TO YOUR BINDER THAT YOU SHOULD
03:12PM 20 HAVE IN FRONT OF YOU. THERE WILL BE SOME DOCUMENTS THERE
03:12PM 21 BEHIND SOME TABS. THE FIRST ONE I WANT YOU TO LOOK AT IS
03:12PM 22 EXHIBIT 4269.

03:13PM 23 NO, YOU WON'T HAVE THOSE.

03:13PM 24 THE WITNESS, I'M SORRY.

03:13PM 25 SO CAN YOU LOOK AT 4269? DO YOU HAVE THAT?

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:13PM 1 A. YES, I DO.

03:13PM 2 Q. AND ARE YOU FAMILIAR WITH THIS DOCUMENT?

03:13PM 3 A. YES.

03:13PM 4 Q. AND CAN YOU TELL ME WHAT IT IS?

03:13PM 5 A. IT'S A DATA SHEET FOR ONE OF OUR SWITCH PRODUCTS, WHICH IS
03:13PM 6 A CATALYST 4900M SWITCH.

03:13PM 7 Q. DO YOU KNOW WHAT THE PURPOSE OF THESE DOCUMENTS ARE AT
03:13PM 8 CISCO?

03:13PM 9 A. YES. SO A DATA SHEET IS SOMETHING THAT WE PRODUCE FOR
03:13PM 10 EVERY ONE OF OUR PRODUCTS, WHETHER IT'S A SWITCH OR A ROUTER,
03:13PM 11 OR EVEN OUR SECURITY PRODUCTS, TO ESSENTIALLY PROVIDE FURTHER
03:13PM 12 INFORMATION THAT GOES INTO THE DETAILS ABOUT BASICALLY WHAT THE
03:13PM 13 FUNCTIONALITY IS FOR THE PRODUCT.

03:13PM 14 AND IT'S A STANDARD PROCESS THAT WE FOLLOW WITHIN OUR
03:13PM 15 BUSINESS TO INTRODUCE AND PROVIDE INFORMATION THAT'S SIMPLE TO
03:14PM 16 UNDERSTAND TO THE END USERS.

03:14PM 17 MR. NELSON: SO, YOUR HONOR, AT THIS POINT I WOULD
03:14PM 18 MOVE INTO EVIDENCE EXHIBIT 4269.

03:14PM 19 THE COURT: ANY OBJECTION?

03:14PM 20 MR. FERRALL: NO OBJECTION. MR. FERRALL.

03:14PM 21 THE COURT: IT WILL BE ADMITTED.

03:14PM 22 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 4269, HAVING BEEN
03:14PM 23 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO
03:14PM 24 EVIDENCE.)

03:14PM 25 BY MR. NELSON:

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:14PM 1 Q. ALL RIGHT. SO IF I LOOK AT THIS, IT'S -- THE TITLE IS
03:14PM 2 CISCO CATALYST 4900M SWITCH. DO YOU SEE THAT?

03:14PM 3 A. YES.

03:14PM 4 Q. AND CAN YOU JUST DESCRIBE FOR US AT A HIGH LEVEL WHAT THE
03:14PM 5 CATALYST 4900M SWITCH IS?

03:14PM 6 A. SURE. CATALYST 4900M SWITCH IS A MODULAR SWITCH. IT'S
03:14PM 7 WHAT WE CALL A TOP OF RACK SWITCH. TYPICALLY IT'S USED IN DATA
03:14PM 8 CENTERS.

03:14PM 9 A TOP OF RACK -- SOUNDS KIND OF TECHNICAL -- WHAT THAT
03:14PM 10 MEANS IS BASICALLY -- A RACK IS BASICALLY A STEEL CAGE WHERE A
03:14PM 11 BUNCH OF DIFFERENT COMPUTERS COULD BE INSERTED TOGETHER TO
03:14PM 12 OPTIMIZE THE SPACE THAT YOU USE WITHIN A DATA CENTER.

03:14PM 13 A SWITCH, A TOP OF RACK SWITCH ESSENTIALLY GOES INTO THAT
03:15PM 14 RACK, THAT STEEL CAGE WHERE ALL THE OTHER SERVERS ARE CONNECTED
03:15PM 15 AND ESSENTIALLY PROVIDES CONNECTIVITY TO THE VARIOUS DIFFERENT
03:15PM 16 SERVERS IN THAT RACK.

03:15PM 17 Q. SO IF YOU LOOK AT THE BOTTOM THIRD OF THAT PAGE, OR
03:15PM 18 QUARTER, JUST TO ESTIMATE, CAN YOU TELL US WHAT WE ARE LOOKING
03:15PM 19 AT HERE?

03:15PM 20 A. RIGHT. BECAUSE THIS IS A 4900M SWITCH, WHICH IS A MODULAR
03:15PM 21 SWITCH, IT PROVIDES MULTIPLE PORT OPTIONS.

03:15PM 22 SO THIS IS GETTING A BIT TECHNICAL, BUT BASICALLY THERE ARE
03:15PM 23 WHAT WE CALL FIXED PORTS, ESSENTIALLY PORTS THAT ARE SHIPPED
03:15PM 24 WITH THE HARDWARE DEVICE. AS YOU CAN SEE, THERE ARE FIXED
03:15PM 25 PORTS AT THE BOTTOM OF THE DEVICE. THEN THERE ARE ESSENTIALLY

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:15PM 1 OPTIONAL PORTS. THEY PROVIDE DIFFERENT CAPABILITIES.

03:15PM 2 SO, FOR EXAMPLE, YOU COULD HAVE MORE PORTS. SOME OF THESE
03:15PM 3 PHOTOS SHOW MORE PORT SLOTS, FOR EXAMPLE.

03:15PM 4 AND YOU COULD ALSO HAVE DIFFERENT LEVELS OF SPEED. SO
03:15PM 5 SOMETIMES, LIKE IF YOU ARE USING WI-FI, SOME OF YOUR WI-FI
03:16PM 6 SPEED IS REALLY POOR, YOU GET JUST BAD CONNECTIVITY. SOMETIMES
03:16PM 7 IF YOU GET HIGH INTERNET SPEED, LIKE THROUGH YOUR COMCAST
03:16PM 8 PROVIDER FOR EXAMPLE, YOU GET MUCH BETTER QUALITY AND MUCH
03:16PM 9 FASTER RESPONSE FROM WEB PAGES.

03:16PM 10 SO THOSE ARE THINGS THAT YOU COULD DO TO ESSENTIALLY
03:16PM 11 CONFIGURE A 4900 MODULAR SWITCH.

03:16PM 12 Q. SO YOU USED THE TERM "PORT." CAN YOU TELL ME WHAT A PORT
03:16PM 13 IS?

03:16PM 14 A. SURE, YES. A PORT IS ESSENTIALLY A LOCATION ON A SWITCH --
03:16PM 15 IT COULD ALSO BE ON A ROUTER AS WELL -- WHERE YOU ESSENTIALLY
03:16PM 16 INSERT A CABLE, AND I THINK YOU MAY HAVE SEEN A CABLE, IT LOOKS
03:16PM 17 KIND OF LIKE A PHONE CABLE, BUT FOR NETWORKS IT'S ACTUALLY A
03:16PM 18 THICKER CABLE, AND ESSENTIALLY THOSE CABLES CONNECT COMPUTERS
03:16PM 19 TO NETWORK EQUIPMENT SUCH AS THE SWITCH OR A ROUTER.

03:16PM 20 Q. SO THE EXAMPLE THAT WE ARE LOOKING AT HERE IN 42 --
03:16PM 21 EXHIBIT 4269 OF THE CATALYST SWITCH, IS THAT HARDWARE?

03:17PM 22 A. THIS IS HARDWARE, TRUE, CORRECT.

03:17PM 23 NOW, WITHIN EACH ONE OF THESE SWITCHES OR ROUTERS ARE
03:17PM 24 LAYERS OF SOFTWARE CAPABILITY. IT'S ALMOST THE BRAIN OF THE
03:17PM 25 DEVICE BECAUSE THE DEVICE ITSELF HAS LOTS OF CAPABILITIES, BUT

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:17PM 1 YOU REALLY CAN'T USE ANY OF THOSE CAPABILITIES UNLESS YOU HAVE
03:17PM 2 A BRAIN THAT BASICALLY MAKES SURE THAT THOSE CAPABILITIES ARE
03:17PM 3 BEING USED.

03:17PM 4 SO ANY TIME YOU HAVE A DEVICE LIKE THIS, WHETHER IT'S A
03:17PM 5 SWITCH OR A ROUTER, IT COMES WITH AN OPERATING SYSTEM, WHICH IS
03:17PM 6 KIND OF THE BRAIN OF THE DEVICE, AND IT HELPS MANAGE AND
03:17PM 7 CONTROL, ESSENTIALLY, THE HARDWARE FUNCTIONS THAT ARE
03:17PM 8 AVAILABLE, ALL THE PORTS, SWITCHES, ALL THE PORT SLOTS THAT ARE
03:17PM 9 AVAILABLE, FOR EXAMPLE, ON THE SWITCH, AS WELL AS SOFTWARE
03:17PM 10 CAPABILITIES, SOFTWARE CAPABILITIES THAT ARE IN THE OPERATING
03:17PM 11 SYSTEM ITSELF.

03:17PM 12 Q. OKAY. NOW, IS THERE A PART OF THIS SOFTWARE THAT THE USER
03:17PM 13 CAN INTERACT WITH?

03:17PM 14 A. ABSOLUTELY. SO EVERY CISCO DEVICE, WHETHER IT'S A SWITCH
03:18PM 15 OR A ROUTER, COMES WITH AN IOS SOFTWARE, AND WITH EACH SOFTWARE
03:18PM 16 IT'S AVAILABLE WITH WHAT WE CALL THE COMMAND-LINE INTERFACE.
03:18PM 17 IT'S THE MOST COMPREHENSIVE DIRECT MECHANISM BY WHICH YOU COULD
03:18PM 18 TAKE ADVANTAGE AND USE ALL THE CAPABILITIES THAT ARE AVAILABLE
03:18PM 19 ON A SWITCH OR A ROUTER.

03:18PM 20 Q. OKAY. NOW, YOU MENTIONED EARLIER THAT THERE ARE OTHER
03:18PM 21 PRODUCTS THAT CISCO MAKES, RIGHT?

03:18PM 22 A. YES, CORRECT.

03:18PM 23 Q. AND SOME EXAMPLES, AGAIN?

03:18PM 24 A. SO, FOR EXAMPLE, IT COULD BE A SECURITY PRODUCT. SOMETIMES
03:18PM 25 YOU MAY HAVE HEARD OF SOMETHING CALLED A FIREWALL. A FIREWALL

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:18PM 1 IS SOMETHING THAT BASICALLY MAKES SURE THAT TRAFFIC COMING INTO
03:18PM 2 YOUR NETWORK OR COMING INTO YOUR DEVICE, IF THERE'S MALICIOUS
03:18PM 3 TRAFFIC, FOR EXAMPLE, LIKE A VIRUS THAT THE DEVICE, THE
03:18PM 4 FIREWALL RECOGNIZES AS MALICIOUS, IT WILL BLOCK THAT TRAFFIC.

03:18PM 5 SO IT GOES BEYOND, FOR EXAMPLE, AN ANTIVIRUS TO MAKE SURE
03:19PM 6 THAT EVEN AT THE PACKET LEVEL, WE ARE ABLE TO DETECT
03:19PM 7 ESSENTIALLY SOMETHING THAT'S MALICIOUS AND BLOCK THAT KIND OF
03:19PM 8 TRAFFIC.

03:19PM 9 NOW, THOSE ARE SECURITY PRODUCTS THAT ALSO, FOR EXAMPLE,
03:19PM 10 HAVE CLI IN THEM. IT WORKS IN CONJUNCTION WITH SWITCHES AND
03:19PM 11 ROUTERS.

03:19PM 12 WE ALSO HAVE COLLABORATION PRODUCTS, SUCH AS WEBEX
03:19PM 13 TECHNOLOGIES OR EVEN IPHONES.

03:19PM 14 SO A LOT OF TIMES IF YOU GO TO A CORPORATE OFFICE BUILDING,
03:19PM 15 IT'S NOT JUST THE ANALOG PHONES ANYMORE. IT'S REALLY WHAT WE
03:19PM 16 CALL THESE DIGITAL PHONES. AND THESE DIGITAL PHONES ARE
03:19PM 17 CONNECTED TO EACH OTHER SO THAT YOU COULD ESSENTIALLY MAKE
03:19PM 18 CALLS TO EACH OTHER THROUGH THESE DIGITAL PHONES AND THEY ARE
03:19PM 19 CONNECTED THROUGH THE SWITCHES AND ROUTERS AS WELL.

03:19PM 20 AND THOSE DEVICES, THE PHONES, ALSO HAVE A SOFTWARE
03:19PM 21 CAPABILITY FOR MANAGING THE CELL PHONES, AND THOSE COULD ALSO
03:20PM 22 BE WORKED, BUILT AND KIND OF CONFIGURED IN CONJUNCTION WITH A
03:20PM 23 SWITCH OR A ROUTER.

03:20PM 24 Q. OKAY. SO THEN THESE OTHER PRODUCTS THAT YOU TALKED ABOUT,
03:20PM 25 COULD THOSE ALSO BE CONTROLLED, AS YOU SAY, OR THE IOS RUN ON

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:20PM 1 THOSE PRODUCTS?

03:20PM 2 A. SO IOS ISN'T RUNNING ON THOSE PRODUCTS. BUT WHAT HAPPENS
03:20PM 3 IS ALL THE TRAFFIC, ALL THE COMMUNICATION GOES THROUGH A SWITCH
03:20PM 4 OR A ROUTER. AND IF YOU WANTED, FOR EXAMPLE, HIGH QUALITY
03:20PM 5 WEBEX, SOMETIMES IF YOU DO SKYPE OR SOMETHING, YOU GET REALLY
03:20PM 6 FUZZY RECEPTION.

03:20PM 7 WITH THE CISCO SWITCH, YOU COULD ACTUALLY GO AHEAD AND SET
03:20PM 8 THE SWITCH TO ESSENTIALLY GIVE YOU HIGHER QUALITY, HIGHER
03:20PM 9 CLARITY FOR CERTAIN KIND OF CALLS.

03:20PM 10 OR IF YOU ARE USING A PHONE, ONE OF THESE DIGITAL PHONES,
03:20PM 11 THE IP PHONES, YOU COULD ALSO -- IN THE OLD DAYS, I REMEMBER
03:20PM 12 WHEN I FIRST USED AN IP PHONE, IT WAS REALLY STATIC-Y.

03:20PM 13 WITH OUR CISCO SWITCHES, WE HAVE AN OPTION, AGAIN, AN
03:21PM 14 OPTION AVAILABLE THROUGH CLI WHERE YOU COULD ESSENTIALLY
03:21PM 15 IMPROVE THE QUALITY OF THE CALLS BY CONFIGURING THESE SWITCHES.

03:21PM 16 Q. NOW, ARE THERE OTHER -- WELL, FIRST -- STRIKE THAT.

03:21PM 17 IOS, CAN YOU TELL US WHAT THAT STANDS FOR?

03:21PM 18 A. IOS STANDS FOR INNER NETWORKING OPERATING SYSTEM. IT
03:21PM 19 SOUNDS VERY SIMILAR TO AN APPLE IOS, AND I COULD EXPLAIN THE
03:21PM 20 DIFFERENCE.

03:21PM 21 Q. IS THERE A DISTINCTION BETWEEN THE APPLE IOS AND THE CISCO
03:21PM 22 IOS?

03:21PM 23 A. ABSOLUTELY. THERE ARE TWO DIFFERENT THINGS.

03:21PM 24 SO CISCO IOS, AGAIN, THE INNER NETWORKING OPERATING SYSTEM
03:21PM 25 WAS ORIGINALLY CREATED IN THE 1980S, AND THAT IS A TECHNOLOGY

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:21PM 1 THAT CISCO INVENTED.

03:21PM 2 APPLE IOS ACTUALLY STANDS FOR IPHONE OPERATING SYSTEM. SO
03:21PM 3 IF SOME OF YOU HAVE AN IPHONE IN THE ROOM. IT BASICALLY IS THE
03:22PM 4 OPERATING SYSTEM THAT RUNS ON THE PHONE.

03:22PM 5 AND APPLE LIKED THE NAME IOS SO MUCH THAT THEY ACTUALLY
03:22PM 6 ASKED CISCO PERMISSION TO USE THE NAME, AND WE GAVE THEM THE
03:22PM 7 OKAY TO ESSENTIALLY USE THE NAME IOS.

03:22PM 8 Q. NOW, ARE -- FOR THE CISCO IOS, I WANT TO TALK ABOUT, ARE
03:22PM 9 THERE SPECIFIC VERSIONS OF THAT IN -- OTHER FLAVORS, SO TO
03:22PM 10 SPEAK?

03:22PM 11 A. ABSOLUTELY. SO THE CISCO IOS ITSELF, SOMETIMES THEY CALL
03:22PM 12 IT IOS CLASSIC. WE HAVE A VARIETY OF OTHER OPERATING SYSTEMS
03:22PM 13 THAT ARE ALL STILL WITHIN THE FAMILY OF IOS OPERATING SYSTEMS,
03:22PM 14 SUCH AS NEXUS OS, WHICH WAS SPECIFICALLY BUILT TO CATER TO THE
03:22PM 15 NEEDS OF DATA CENTER CUSTOMERS, AS WELL AS WHAT WE CALL IOS XR
03:22PM 16 WHICH WAS BUILT TO ESSENTIALLY CATER TO TELECOM COMPANIES.

03:22PM 17 AN EXAMPLE OF A TELECOM WOULD BE AT&T OR COMCAST, VERIZON.
03:22PM 18 DEUTSCHE TELEKOM.

03:23PM 19 SO THESE ARE DIFFERENT TYPES OF OPERATING SYSTEMS THAT
03:23PM 20 CATER TO THE DIFFERENT NEEDS OF CUSTOMERS.

03:23PM 21 Q. NOW, YOU MENTIONED THE CLI, THE COMMAND-LINE INTERFACE
03:23PM 22 BEING A USER INTERFACE IN THE CISCO IOS FOR EXAMPLE, RIGHT?

03:23PM 23 A. YES.

03:23PM 24 Q. ARE THERE OTHER USER INTERFACES IN THE PRODUCT AS WELL?

03:23PM 25 A. SURE.

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:23PM 1 Q. CAN YOU EXPLAIN WHAT SOME OF THOSE ARE?

03:23PM 2 A. SO CISCO'S CLI IS AVAILABLE ON EVERY ONE OF OUR DEVICES.

03:23PM 3 CUSTOMERS HAVE THE OPTION TO, FOR EXAMPLE, USE A GUI-BASED

03:23PM 4 PRODUCT, WHICH IS SOMETHING THAT BASICALLY SHOWS AS A

03:23PM 5 PHOTOGRAPHICAL DISPLAY WITH SOMETHING THAT YOU COULD GO AHEAD

03:23PM 6 AND CLICK WITH A MOUSE THAT HAS ESSENTIALLY ICONS OR BUTTONS,

03:23PM 7 DROP DOWN MENUS, ET CETERA. IT'S ESSENTIALLY ANOTHER MECHANISM

03:23PM 8 BY WHICH YOU COULD ALSO GET ACCESS TO CAPABILITIES ON THE

03:23PM 9 DEVICE.

03:23PM 10 AS YOU CAN IMAGINE, IT'S NOT -- IT'S NEVER AS COMPREHENSIVE

03:23PM 11 AS ALL THE CAPABILITIES THAT ARE AVAILABLE THROUGH A CLI JUST

03:24PM 12 BECAUSE WE HAVE SUCH A RICH FUNCTIONALITY THAT'S AVAILABLE AT

03:24PM 13 THE CLI JUST AT THE TIP OF THE USER'S INPUT OF THE DEVICE.

03:24PM 14 Q. NOW I WOULD LIKE YOU TO TURN TO ANOTHER TAB IN YOUR BINDER,

03:24PM 15 AND THIS WOULD BE EXHIBIT 760. AND IF YOU COULD TAKE A LOOK AT

03:24PM 16 THAT DOCUMENT. ARE YOU FAMILIAR WITH THIS DOCUMENT?

03:24PM 17 A. YES.

03:24PM 18 Q. CAN YOU TELL US WHAT IT IS?

03:24PM 19 A. IT'S A PUBLISHED DOCUMENT ON THE IOS SOFTWARE TECHNOLOGY.

03:24PM 20 IT'S CALLED THE INTRODUCTION TO CISCO IOS SOFTWARE.

03:24PM 21 AGAIN, IT'S ONE OF THE PUBLICATIONS WE PROVIDE ROUTINELY AS

03:24PM 22 PART OF OUR PRODUCT DEVELOPMENT EFFORTS

03:24PM 23 Q. AND DO YOU KNOW WHO THE AUDIENCE IS FOR A DOCUMENT LIKE

03:24PM 24 THIS?

03:24PM 25 A. YES. SO THESE TYPE OF DOCUMENTS ARE TARGETED FOR NETWORK

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:25PM 1 ADMINISTRATORS WHO ARE ESSENTIALLY THE EXPERTS AT RUNNING AND
03:25PM 2 TROUBLE SHOOTING AND KEEPING THESE CRITICAL NETWORK SYSTEMS UP
03:25PM 3 AND RUNNING.

03:25PM 4 Q. AT THIS POINT I WOULD MOVE EXHIBIT 760 INTO EVIDENCE,
03:25PM 5 YOUR HONOR?

03:25PM 6 THE COURT: ANY OBJECTION?

03:25PM 7 MR. FERRALL: NO OBJECTION.

03:25PM 8 THE COURT: IT WILL BE ADMITTED.

03:25PM 9 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 760, HAVING BEEN
03:25PM 10 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO
03:25PM 11 EVIDENCE.)

03:25PM 12 BY MR. NELSON:

03:25PM 13 Q. SO IF WE COULD GO MR. FISHER TO TABLE 41 WHICH IS ON
03:25PM 14 PAGE 5. CAN YOU TAKE A LOOK AT THE SCREEN OR ON THE DOCUMENT
03:25PM 15 ITSELF, BUT EITHER WAY I WANT TO LOOK AT TABLE 4-1. ARE YOU
03:25PM 16 THERE WITH ME?

03:25PM 17 A. YES.

03:25PM 18 Q. CAN YOU TELL US WHAT THIS IS?

03:25PM 19 A. THIS IS A LIST OF SAMPLE IOS CLI UNDERSTAND DEMANDS.

03:25PM 20 Q. AND ARE THESE ALL THE COMMANDS THAT ARE AVAILABLE?

03:25PM 21 A. ABSOLUTELY NOT. I MEAN, THESE ARE JUST A SMALL SUBSET OF
03:25PM 22 COMMANDS.

03:25PM 23 Q. AND DO YOU KNOW WHAT THESE COMMANDS ARE USED FOR GENERALLY?

03:26PM 24 A. THEY ARE USED. SO THESE ARE SHOW COMMANDS. SO AS A
03:26PM 25 NETWORK ADMINISTRATOR, YOU IMMEDIATELY KNOW THAT SHOW COMMANDS

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:26PM 1 ARE GOING TO GIVE YOU INFORMATION ABOUT THE DEVICE TO HELP YOU
03:26PM 2 TROUBLE SHOOT. AND JUST GIVE STATUS INFORMATION, LIKE IS THE
03:26PM 3 DEVICE GOING BAD, IS IT ACTING UP, IS IT HELPING. SO SHOW
03:26PM 4 COMMANDS, ESSENTIALLY ARE KNOWN BY NETWORK ADMINISTRATORS AS A
03:26PM 5 MECHANISM BY WHICH YOU COULD GET ACCESS TO THAT INFORMATION.

03:26PM 6 Q. NOW I WANT TO GO BACK AND TALK A LITTLE BIT ABOUT THE
03:26PM 7 GRAPHICAL USER INTERFACE IN THE PRODUCT?

03:26PM 8 A. SURE.

03:26PM 9 Q. SO YOU SAID THERE WAS A GRAPHICAL USER INTERFACE AVAILABLE;
03:26PM 10 IS THAT RIGHT?

03:26PM 11 A. YES, WE STILL CONTINUE TO HAVE GRAPHICAL USER INTERFACES.

03:26PM 12 Q. SO THEN WHY IS THE CLI, THE COMMAND-LINE INTERFACE STILL
03:26PM 13 OFFERED?

03:26PM 14 A. GREAT QUESTION. WELL, WE LIKE TO PROVIDE CAPABILITIES THAT
03:27PM 15 HELP ALL OF OUR CUSTOMERS BE HAPPY USING OUR PRODUCTS. WHAT WE
03:27PM 16 FIND AGAIN IN MY CAPACITY AS A PRODUCT MANAGEMENT LEADER AT
03:27PM 17 CISCO, WHAT WE FIND WHEN WE SPEAK TO CUSTOMERS WHETHER IT'S THE
03:27PM 18 DIRECT CONVERSATIONS OR THROUGH SURVEYS, WHAT WE FIND IS THAT
03:27PM 19 ACTUALLY OUR USERS PREFER TO USE THE COMMAND-LINE INTERFACE,
03:27PM 20 AND TIME AND TIME AGAIN, THIS IS BASICALLY THE RESPONSE WE GET
03:27PM 21 FROM EVERY CUSTOMER THAT I'VE EVER SPOKEN WITH IS SURE, THEY
03:27PM 22 WOULD LIKE ADDITIONAL OPTIONS SUCH AS PROGRAMMATIC INTERFACES,
03:27PM 23 BUT THEY ARE ABSOLUTELY SURE THAT CLI AND WHAT THEY USE DAY IN
03:27PM 24 AND DAY OUT TO TROUBLE SHOOT THE DEVICE. THIS IS THE MOST
03:27PM 25 COMPREHENSIVE WAY THAT THEY COULD MANAGE THE DEVICE, GET

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:27PM 1 INFORMATION ABOUT THE DEVICE. AND THIS IS THEIR PREFERRED
03:27PM 2 MECHANISM BY FAR.

03:27PM 3 Q. AND HOW DO YOU KNOW IT'S THE PREFERRED MECHANISM?

03:27PM 4 A. AGAIN, BECAUSE THIS IS WHAT THE CUSTOMERS TELL US.

03:28PM 5 MR. FERRALL: OBJECTION, YOUR HONOR. HEARSAY.

03:28PM 6 THE COURT: SUSTAINED.

03:28PM 7 BY MR. NELSON:

03:28PM 8 Q. YOU MENTIONED SURVEYS BEFORE?

03:28PM 9 A. YES. SO THIS IS WHAT THE CUSTOMERS HAVE TOLD US, WHETHER
03:28PM 10 IT'S VERBALLY OR THROUGH SURVEY RESULTS. AND WHAT WE LIKE TO
03:28PM 11 DO AS PRODUCT MANAGERS IS TO BE -- SO AS PRODUCT MANAGERS WE
03:28PM 12 WANT TO BUILD CAPABILITIES INTO OUR TECHNOLOGIES THAT ARE NOT
03:28PM 13 WASTED MONEY OR WASTE OF TIME FOR OUR CUSTOMERS. SO WE ARE
03:28PM 14 VERY DILIGENT ABOUT UNDERSTANDING WHAT DO OUR CUSTOMERS TRULY
03:28PM 15 WANT.

03:28PM 16 SO WE CONDUCT VARIOUS DIFFERENT MECHANISMS BY WHICH WE TRY
03:28PM 17 TO GET OBJECTIVE INFORMATION ABOUT THE NEEDS AND THE DESIRES OF
03:28PM 18 OUR CUSTOMERS. ONE OF WHICH IS TO RUN SURVEYS AND TO RUN BLIND
03:28PM 19 INTERVIEWS.

03:28PM 20 Q. DOES THE CLI HAVE ANY VALUE IN THE CISCO PRODUCT THEN?

03:28PM 21 A. SO YES. BECAUSE OUR CUSTOMERS HAVE INDICATED THAT THEY
03:29PM 22 PREFER THE USE OF --

03:29PM 23

03:29PM 24 MR. FERRALL: OBJECTION, YOUR HONOR. HEARSAY.

03:29PM 25 THE COURT: SUSTAINED.

DIRECT EXAMINATION OF CHRISTINE BAKAN BY MR. NELSON

03:29PM 1 BY MR. NELSON:

03:29PM 2 Q. SO FROM CISCO'S PERSPECTIVE, WHY INCLUDE THIS, WHAT'S THE
03:29PM 3 VALUE IN THE CLI?

03:29PM 4 A. WELL, OUR PRODUCTS ARE THE MOST POPULAR PRODUCTS IN THE
03:29PM 5 INDUSTRY. WE HAVE 80 PERCENT MARKET SHARE IN THE NETWORKING
03:29PM 6 SPACE. AND AS A RESULT WE KNOW THAT OUR PRODUCTS WHICH ARE
03:29PM 7 PRIMARILY MANAGED THROUGH CLI, ARE THE LEADING PRODUCTS OF
03:29PM 8 CHOICE BY OUR CUSTOMERS. SO WE KNOW THAT CLI IS A VERY
03:29PM 9 IMPORTANT ASPECT OF OUR PRODUCTS.

03:29PM 10 Q. AND HAS THERE EVER BEEN AN ATTEMPT AT CISCO TO DETERMINE
03:29PM 11 THE VALUE OF THE CLI SEPARATE FROM THE PRODUCT ITSELF?

03:29PM 12 A. NO. IT'S NOT SOMETHING THAT WE'VE THOUGHT ABOUT DOING
03:29PM 13 BECAUSE TO US CLI REPRESENTS ALL THE FUNCTIONALITY THAT'S
03:29PM 14 AVAILABLE IN THE PRODUCTS. IT'S A MECHANISM BY WHICH THE
03:29PM 15 ADMINISTRATORS, THE USERS OF THESE PRODUCTS HAVE DIRECT ACCESS
03:30PM 16 TO BE ABLE TO NOT JUST CONFIGURE, NOT JUST CONTROL, NOT JUST TO
03:30PM 17 TURN SOMETHING ON, BUT TO ACTUALLY TROUBLE SHOOT, MAKE SURE
03:30PM 18 THAT THESE DEVICES THAT ARE RUNNING VERY MISSION-CRITICAL
03:30PM 19 SYSTEMS, ARE WORKING PROPERLY AND WORKING EFFICIENTLY ALL THE
03:30PM 20 TIME. SO CLI IS A VERY CRITICAL ASPECT OF OUR PRODUCT
03:30PM 21 PORTFOLIO. SO WE HAVE NEVER CONDUCTED A SEPARATE SURVEY TO
03:30PM 22 DETERMINE ITS OWN SEPARATE VALUE.

03:30PM 23 MR. NELSON: I THANK YOU VERY MUCH AND I HAVE NO
03:30PM 24 FURTHER QUESTIONS AT THIS POINT, YOUR HONOR.

03:30PM 25 THE COURT: THANK YOU.

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:30PM 1 MR. FERRALL, ARE YOU GOING TO CONDUCT THE CROSS?

03:30PM 2 MR. FERRALL: I AM. THANK YOU, YOUR HONOR.

03:30PM 3 THE COURT: GO AHEAD, PLEASE.

03:31PM 4 MR. FERRALL: YOUR HONOR, MAY I APPROACH?

03:31PM 5 THE COURT: YES, PLEASE.

03:31PM 6 THE WITNESS: THANK YOU.

03:31PM 7

03:31PM 8 **CROSS-EXAMINATION BY MR. FERRALL**

03:31PM 9

03:31PM 10 Q. AND YOUR HONOR, I HAVE A SET FOR YOU.

03:31PM 11 GOOD AFTERNOON, MS. BAKAN, DID I PRONOUNCE THAT CORRECTLY?

03:31PM 12 A. YES.

03:31PM 13 Q. I'VE HANDED YOU A BINDER OF A FEW EXHIBITS I MIGHT ASK YOU
03:31PM 14 ABOUT, AS WELL AS A COPY OF YOUR DEPOSITION, WHICH YOU GAVE IN
03:31PM 15 THIS CASE.

03:31PM 16 MS. BAKAN, YOU'RE A RELATIVE NEWCOMER TO CISCO, RIGHT?

03:31PM 17 A. I HAVE BEEN HERE THREE YEARS.

03:31PM 18 Q. AND TO BE CLEAR, YOU'VE NOT CREATED ANY OF THE CLI COMMANDS
03:32PM 19 THAT ARE IN THIS CASE, RIGHT?

03:32PM 20 A. I HAVE NOT CREATED, YOU MEAN THE SPECIFIC COMMANDS? NO, I
03:32PM 21 HAVE NOT.

03:32PM 22 Q. AND YOU HAVEN'T CREATED ANY OF THE COMMAND RESPONSES THAT
03:32PM 23 APPEAR ON THE SCREEN THAT ARE ASSERTED IN THIS CASE EITHER,
03:32PM 24 RIGHT?

03:32PM 25 A. CORRECT.

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:32PM 1 Q. OKAY. IN FACT. ALL OF THE ASSERTED CLI FEATURES THAT ARE
03:32PM 2 ASSERTED IN THIS CASE, THEY WERE CREATED BEFORE YOU EVEN GOT TO
03:32PM 3 CISCO, RIGHT?

03:32PM 4 A. YES.

03:32PM 5 Q. YOU HAVE BEEN FOCUSED ON AN AREA AT CISCO CALLED SOFTWARE
03:32PM 6 DEFINED NETWORKING, RIGHT?

03:32PM 7 A. SO WHEN I FIRST JOINED CISCO, THAT WAS ONE OF THE AREAS OF
03:32PM 8 RESPONSIBILITY THAT I HAD. I ACTUALLY -- MY MAIN
03:32PM 9 RESPONSIBILITY IS TO OVERSEE THE SOFTWARE CAPABILITIES THAT ARE
03:32PM 10 AVAILABLE ON OUR NETWORKING TECHNOLOGIES, WHETHER IT'S SWITCHES
03:32PM 11 OR ROUTERS. SO I OVERSEE THE SOFTWARE CAPABILITIES WITHIN THE
03:32PM 12 OPERATING SYSTEM AS WELL AS RUNNING OUTSIDE OF THE OPERATING
03:33PM 13 SYSTEM, SUCH AS FOR EXAMPLE SDN-TYPE OF TECHNOLOGIES.

03:33PM 14 Q. OKAY. AND YOUR WEB PAGE ON THE CISCO WEBSITE DESCRIBES YOU
03:33PM 15 AS A SENIOR DIRECTOR OF SOFTWARE DEFINED NETWORKING, THAT WAS
03:33PM 16 AS OF YESTERDAY, DOES THAT SOUND CORRECT TO YOU?

03:33PM 17 A. I DON'T KNOW THAT THAT'S ON THE CISCO WEBSITE. SO I'M NOT
03:33PM 18 SURE.

03:33PM 19 Q. WELL, LET ME JUST HAND YOU THAT AND YOU CAN TELL ME WHETHER
03:33PM 20 THIS LOOKS FAMILIAR.

03:33PM 21 A. OKAY. SO I BELIEVE THIS WAS A -- RIGHT. I THINK THIS WAS
03:33PM 22 CREATED QUITE SOME TIME AGO, CORRECT. AND IT WAS FOR A BLOG,
03:33PM 23 AND USUALLY A BLOG THE BLOGS ARE CREATED BY PUBLIC RELATIONS
03:33PM 24 TEAMS SO I BELIEVE THIS WAS CREATED BY OUR PUBLIC RELATIONS
03:34PM 25 TEAM.

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:34PM 1 Q. OKAY. SINCE YOU HAVE BEEN AT CISCO, YOU HAVE BEEN FOCUSED
03:34PM 2 ON THE ENTERPRISE MARKET SEGMENT FOR THE ENTIRE PERIOD; IS THAT
03:34PM 3 RIGHT?

03:34PM 4 A. YES.

03:34PM 5 Q. AND YOU DISCUSSED WITH MR. NELSON A CISCO DATA SHEET, DO
03:34PM 6 YOU REMEMBER THAT?

03:34PM 7 A. A CISCO DATA SHEET, YOU MEAN FOR THE SWITCHES?

03:34PM 8 Q. RIGHT. THAT WAS THE NEXUS, THE NEXUS 4,000?

03:34PM 9 A. I BELIEVE IT WAS THE CATALYST.

03:34PM 10 Q. CATALYST 4,000, MY APOLOGIES. AND DATA SHEETS, THEY ARE
03:34PM 11 MEANT TO TELL THE PUBLIC ABOUT CISCO'S PRODUCTS, RIGHT?

03:34PM 12 A. THEY ARE MEANT TO SHARE INFORMATION ABOUT THE CAPABILITIES
03:34PM 13 OF THE PRODUCTS TO THE END USERS.

03:34PM 14 Q. YOU EXPECT THAT PEOPLE ARE GOING TO RELY UPON THE ACCURACY
03:34PM 15 OF CISCO DATA SHEETS, RIGHT?

03:34PM 16 A. OF COURSE. SOMETIMES WE HAVE ERRORS AND WE HAVE TO CORRECT
03:35PM 17 THEM JUST LIKE ANYTHING, BUT GENERALLY, YES.

03:35PM 18 Q. NOW THE DATA SHEET THAT YOU -- SO ARE YOU AWARE, MS. BAKAN,
03:35PM 19 THAT CISCO BE PUBLISHES DATA SHEETS THAT DESCRIBE ITS CLI AS AN
03:35PM 20 INDUSTRY STANDARD?

03:35PM 21 A. I AM NOT AWARE.

03:35PM 22 Q. YOU ARE NOT AWARE OF THAT. CAN YOU LOOK AT EXHIBIT 810 IN
03:35PM 23 YOUR BINDER?

03:35PM 24 A. I DO NOT HAVE AN EXHIBIT 810 IN MY BINDER.

03:35PM 25 Q. SORRY, 8110, I MISSPOKE, THAT'S MY FAULT. I'M SURE IT

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:36PM 1 WASN'T MY TEAM'S FAULT, THAT'S FOR SURE. MS. BAKAN,

03:36PM 2 EXHIBIT 8110, THIS IS A CISCO DATA SHEET, RIGHT?

03:36PM 3 A. CORRECT.

03:36PM 4 Q. AND IT'S FOR CISCO UNIFIED COMMUNICATIONS, MANAGER EXPRESS

03:36PM 5 10.5, CORRECT?

03:36PM 6 A. CORRECT.

03:36PM 7 Q. AND THIS IS, I OFFER EXHIBIT 8110 INTO EVIDENCE,

03:36PM 8 YOUR HONOR?

03:36PM 9 THE COURT: ANY OBJECTION?

03:36PM 10 MR. NELSON: NO OBJECTION, YOUR HONOR.

03:36PM 11 THE COURT: IT WILL BE ADMITTED.

03:36PM 12 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 8110 HAVING BEEN

03:36PM 13 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO

03:36PM 14 EVIDENCE.)

03:36PM 15 BY MR. FERRALL:

03:36PM 16 Q. THIS DATA SHEET TALKS ABOUT A PRODUCT THAT RUNS CISCO IOS,
03:36PM 17 RIGHT?

03:36PM 18 A. YES.

03:36PM 19 Q. OKAY. AND IF YOU LOOK AT THE SECOND PAGE OF THIS DATA

03:36PM 20 SHEET, ABOUT TWO-THIRDS OF THE WAY DOWN, YOU WILL SEE UNDER THE

03:37PM 21 BULLET REMOTE MAINTENANCE AND TROUBLE SHOOTING, CISCO EXPLAINS

03:37PM 22 YOU CAN USE THE INDUSTRY STANDARD CISCO IOS SOFTWARE

03:37PM 23 COMMAND-LINE INTERFACE OR USER FRIENDLY GUI TO CONFIGURE AND

03:37PM 24 ADMINISTER CISCO UNIFIED COMMUNICATIONS MANAGER EXPRESS, RIGHT?

03:37PM 25 A. THAT'S WHAT IT SAYS, CORRECT.

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:37PM 1 Q. AND CISCO DATA SHEETS FOR ITS ETHERNET SWITCHES ALSO
03:37PM 2 DESCRIBE ITS COMMAND-LINE INTERFACE AS AN INDUSTRY STANDARD,
03:37PM 3 RIGHT?

03:37PM 4 A. I AM NOT AWARE OF THE SPECIFIC DATA SHEET THAT SAYS THAT.

03:37PM 5 Q. OKAY. LET'S LOOK AT EXHIBIT 5229 IN YOUR BINDER.

03:38PM 6 EXHIBIT 5229 IS A DATA SHEET FOR THE CISCO NEXUS 7,000 SERIES,
03:38PM 7 SIMPLIFIED END TO END MANAGEMENT, RIGHT?

03:38PM 8 A. CORRECT.

03:38PM 9 Q. AND THE NEXUS 7,000, BY THE WAY, THAT'S A PRODUCT DIRECTED
03:38PM 10 TO THE DATA CENTER, CORRECT?

03:38PM 11 A. YES, IT IS.

03:38PM 12 MR. FERRALL: YOUR HONOR, I WOULD OFFER EXHIBIT 5299
03:38PM 13 INTO EVIDENCE?

03:38PM 14 THE COURT: ANY OBJECTION?

03:38PM 15 MR. NELSON: NO OBJECTION, YOUR HONOR.

03:38PM 16 THE COURT: IT WILL BE ADMITTED.

03:38PM 17 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 5299, HAVING BEEN
03:38PM 18 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO
03:38PM 19 EVIDENCE.)

03:38PM 20 MR. FERRALL: NOW THIS DATA SHEET, THIS DATES FROM
03:38PM 21 2008, I BELIEVE, DO YOU SEE THAT, I GUESS ON COPYRIGHT PAGE ON
03:38PM 22 THE SECOND, COPYRIGHT NOTICE ON THE SECOND PAGE. THIS IS A
03:38PM 23 2008 DATA SHEET, CORRECT.

03:38PM 24 THE WITNESS: CORRECT. I DO SEE A COPYRIGHT DATE.

03:39PM 25 Q. AND ON THE FIRST PAGE IN THE MIDDLE COLUMN, IF I COULD

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:39PM 1 DIRECT YOUR ATTENTION THERE, CISCO DESCRIBES ITS COMMAND-LINE
03:39PM 2 INTERFACE, CLI, SIMILAR TO THAT OF CISCO IOS SOFTWARE, USES THE
03:39PM 3 INDUSTRY STANDARD CISCO IOS CLI TO MINIMIZE THE AMOUNT OF TIME
03:39PM 4 NEEDED FOR OPERATORS TO LEARN THE SYSTEM AND BECOME
03:39PM 5 OPERATIONALLY PROFICIENT. THAT'S THE WAY CISCO DESCRIBED ITS
03:39PM 6 CLI IN THIS DATA SHEET?

03:39PM 7 A. CORRECT.

03:39PM 8 Q. NOW IF I COULD GO BACK TO THE DATA SHEET YOU TALKED ABOUT
03:39PM 9 FOR THE CATALYST 4900, I DON'T KNOW IF YOU HAVE THAT HANDY, IF
03:39PM 10 YOU HAVE THE OTHER BINDER HANDY, THAT WAS EXHIBIT 4269.

03:40PM 11 A. OKAY.

03:40PM 12 Q. THIS IS A DATA SHEET FROM 2010?

03:40PM 13 A. YES.

03:40PM 14 Q. AND THIS DESCRIBES A PRODUCT THAT HAS TEN GIGABIT ETHERNET
03:40PM 15 CAPABILITIES, RIGHT?

03:40PM 16 A. YES.

03:40PM 17 Q. OKAY. AND I THINK IF YOU LOOK AT PAGE 4 OF THIS DATA
03:40PM 18 SHEET, IT LISTS THE NUMBER OF PORTS OF TEN GIGABIT ETHERNET
03:40PM 19 PORTS THAT THIS SWITCH CAN ACCOMMODATE, RIGHT?

03:40PM 20 A. YES.

03:40PM 21 Q. OKAY. AND THERE'S A RANGE OF OPTIONS THERE, IT'S IN THE
03:40PM 22 FIRST COLUMN AFTER THE TEXT IN THIS CHART, RIGHT?

03:40PM 23 A. CORRECT.

03:40PM 24 Q. AND YOU WILL SEE, THERE'S A BUNCH OF DIFFERENT OPTIONS, BUT
03:40PM 25 THE MAXIMUM LISTED FOR THIS PRODUCT IN 2010 WAS 24 PORTS,

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:41PM 1 RIGHT?

03:41PM 2 A. YES.

03:41PM 3 Q. AND SO WHAT THIS CISCO PRODUCT OFFERED WAS A SWITCH WITH,
03:41PM 4 AT MOST, ONE HALF THE NUMBER OF TEN GIGABIT PORTS AS ARISTA HAD
03:41PM 5 OFFERED TWO YEARS EARLIER IN 2008, RIGHT?

03:41PM 6 A. I DO NOT KNOW WHEN ARISTA'S PRODUCT WAS AVAILABLE WITH THAT
03:41PM 7 PORT CONFIGURATION, BUT THIS IS CORRECT THIS IS THE PORT
03:41PM 8 CONFIGURATION OPTION FOR THE 4900 MODULAR SWITCH.

03:41PM 9 THE COURT: MAY I ASK THAT YOU KEEP YOUR VOICE UP. I
03:41PM 10 KNOW YOUR CHAIR DOESN'T MOVE AND THE MICROPHONE IS A LITTLE FAR
03:41PM 11 AWAY. YEAH, THAT'S DIFFICULT. I'M SORRY.

03:41PM 12 MR. FERRALL:

03:41PM 13 Q. NOW, YOU ANSWERED SOME QUESTIONS ABOUT THE VALUE OF THE
03:42PM 14 CLI, I THINK YOU WOULD AGREE THAT CISCO DOESN'T HAVE A SEPARATE
03:42PM 15 STUDY VALUING ITS COMMAND-LINE INTERFACE?

03:42PM 16 A. SO THE VALUE OF THE CLI AS I MENTIONED EARLIER IS
03:42PM 17 REPRESENTING ALL THE CAPABILITIES OF THE DEVICES WHETHER IT'S A
03:42PM 18 SWITCH OR YOU ROUTER. IF YOU ARE ASKING SPECIFICALLY HAVE WE
03:42PM 19 RUN YOUR STUDIES ON THE MONETARY SPECIFIC VALUE OF THE CLI, NO,
03:42PM 20 WE HAVE NOT.

03:42PM 21 Q. AND CISCO DOESN'T SELL ITS COMMAND-LINE INTERFACE SEPARATE
03:42PM 22 FROM THE HARDWARE, RIGHT?

03:42PM 23 A. NO, WE DO NOT. IT'S PART OF THE OPERATING SYSTEM. THAT IS
03:42PM 24 THE BRAIN OF THE HARDWARE.

03:42PM 25 Q. AND I KNOW IT'S YOUR VIEW THAT EVERYTHING THAT CISCO BUILDS

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:42PM 1 LEVERAGES THE COMMAND-LINE INTERFACE, NO MATTER WHAT INTERFACE
03:42PM 2 YOU PROVIDE TO THE CUSTOMER, RIGHT?

03:42PM 3 A. SO TO -- I BELIEVE YOU ARE REFERRING TO THE DEPOSITION,
03:43PM 4 CORRECT?

03:43PM 5 Q. WELL, THAT IS WHAT YOU TESTIFIED IN DEPOSITION, CORRECT?

03:43PM 6 A. RIGHT. SO ALL THE CAPABILITIES WE PROVIDE IN OUR
03:43PM 7 ENTERPRISING PRODUCTS, WHETHER IT'S THE SWITCHES OR THE
03:43PM 8 ROUTERS, WHEN WE PROVIDE AN INTERFACE ON TOP OF THE DEVICE
03:43PM 9 WHICH IS FOR EXAMPLE A MANAGEMENT INTERFACE OR GUI BASED
03:43PM 10 INTERFACE, THOSE ARE BUILT ON TOP OF THE COMMAND-LINE
03:43PM 11 INTERFACE.

03:43PM 12 Q. OKAY. AND YOU UNDERSTAND, THOUGH, THAT CISCO IS NOT
03:43PM 13 ASSERTING HERE THAT ARISTA HAS INFRINGED ALL OF THE FEATURES OF
03:43PM 14 THE CISCO COMMAND-LINE INTERFACE, YOU KNOW THAT, RIGHT?

03:43PM 15 A. CORRECT.

03:43PM 16 Q. AND CISCO IS CERTAINLY NOT ASSERTING THE SORT OF FEATURES
03:43PM 17 THAT YOUR TEAM IS DEVELOPING IN THE FIELD OF SOFTWARE DEFINED
03:43PM 18 NETWORKING, YOU KNOW THAT, RIGHT?

03:43PM 19 A. I BELIEVE THAT'S TRUE, YES.

03:43PM 20 Q. OKAY. NOW HAVE YOU LEARNED -- STRIKE THAT HAS CISCO
03:44PM 21 DEVELOPED STRATEGIES ABOUT HOW TO IMPROVE THE PROGRAMMABILITY
03:44PM 22 OF ITS SWITCHES IN ORDER TO MEET CUSTOMER NEEDS?

03:44PM 23 A. WE DEVELOPED CAPABILITIES.

03:44PM 24 Q. STRATEGIES, I'M SORRY, STRATEGIES?

03:44PM 25 A. SO WHAT WE LOOK TO DO IS WE KNOW THAT THERE ARE VERY

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:44PM 1 VARYING LEVELS OF TREND THAT IS OCCUR IN THE INDUSTRY, ONE OF
03:44PM 2 WHICH IS AN AUTOMATION-BASED TREND. AND YES, SO WE LOOK AT
03:44PM 3 VARIOUS DIFFERENT STRATEGIES BY WHICH CUSTOMERS MAY WANT TO
03:44PM 4 HAVE CAPABILITIES BEYOND THE ACTUAL DEVICES THEMSELVES.

03:45PM 5 Q. RIGHT.

03:45PM 6 AND THIS NOTION OF SOFTWARE-DEFINED NETWORKING, THAT
03:45PM 7 REFLECTS ITS A MAJOR TRANSITION IN THE WAY NETWORKS ARE BEING
03:45PM 8 CONFIGURED, RIGHT?

03:45PM 9 A. WE FELT SO SEVERAL YEARS AGO. WE WOULD ARGUE THAT TREND
03:45PM 10 HAS KIND OF DAMPENED. I DON'T BELIEVE THAT TREND HAS REALLY
03:45PM 11 BECOME AS BIG OF A TREND AS WE THOUGHT IT ORIGINALLY COULD BE.

03:45PM 12 BUT YES, IT'S ONE OF THE TRENDS THAT WE HAVE BEEN PAYING
03:45PM 13 ATTENTION TO AND WE HAVE BEEN TRYING TO UNDERSTAND, WELL, HOW
03:45PM 14 DO WE BETTER MEET THE CUSTOMER NEEDS IN THIS AREA.

03:45PM 15 Q. YOU BELIEVE THAT ONE OF THE PROMISES OF SOFTWARE DEFINED
03:45PM 16 NETWORKING IS TO ENABLE MORE OPEN AND PROGRAMMABLE NETWORK
03:45PM 17 INFRASTRUCTURE, DOES THAT SOUND FAMILIAR TO YOU?

03:45PM 18 A. I DON'T KNOW EXACTLY WHERE I SAID THAT, BUT SURE.

03:45PM 19 Q. THAT'S FROM CISCO'S 10-K'S FILING WITH THE SECURITIES AND
03:46PM 20 EXCHANGE COMMISSION. DOES THAT SOUND RIGHT TO YOU?

03:46PM 21 A. SURE. OKAY.

03:46PM 22 Q. AND THIS IS CERTAINLY AN AREA THAT YOU FOCUSED ON, RIGHT?

03:46PM 23 A. CORRECT. AND THIS IS SEVERAL YEARS AGO.

03:46PM 24 Q. THAT WAS FROM JULY 2015, DOES THAT SOUND ABOUT RIGHT?

03:46PM 25 A. 2015? OKAY. WOW, OKAY. SURE.

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:46PM 1 Q. IF I COULD ASK YOU TO TURN TO EXHIBIT 8092, PLEASE.

03:46PM 2 A. OKAY.

03:46PM 3 Q. EXHIBIT 8092 IS A CISCO POWER POINT PRESENTATION; IS THAT
03:46PM 4 RIGHT?

03:46PM 5 A. YES.

03:46PM 6 Q. AND IT'S -- IF I CAN JUST ASK YOU TO LOOK AT THE SECOND TO
03:46PM 7 LAST PAGE I THINK YOU WILL SEE YOUR NAME THERE IN THE CHART AT
03:47PM 8 THE BACK.

03:47PM 9 A. AH, YES.

03:47PM 10 Q. IT'S IN THE VERY MIDDLE BOX, RIGHT?

03:47PM 11 A. YES.

03:47PM 12 Q. AND YOU RECOGNIZE THIS AS A POWER POINT ON THE TOPIC OF
03:47PM 13 MSDC, OR MEGASCALE DATA CENTER, RIGHT?

03:47PM 14 A. SURE.

03:47PM 15 MR. FERRALL: YOUR HONOR, I WOULD OFFER EXHIBIT 8092
03:47PM 16 INTO EVIDENCE.

03:47PM 17 MR. NELSON: NO OBJECTION.

03:47PM 18 THE COURT: IT WILL BE ADMITTED.

03:47PM 19 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 8092, HAVING BEEN
03:47PM 20 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO
03:47PM 21 EVIDENCE.)

03:47PM 22 BY MR. FERRALL:

03:47PM 23 Q. AND JUST TO CLARIFY, MSDC, THAT DOES STAND FOR MEGASCALE
03:47PM 24 DATA CENT ARE, RIGHT?

03:47PM 25 A. RIGHT.

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:47PM 1 Q. AND THAT REFERS TO SOME OF THE COMPANIES YOU TESTIFIED TO
03:47PM 2 EARLIER LIKE APPLE, RIGHT?

03:48PM 3 A. SURE.

03:48PM 4 Q. AND FACEBOOK, CORRECT?

03:48PM 5 A. YES.

03:48PM 6 Q. GOOGLE?

03:48PM 7 A. THEY DO ALL HAVE MEGASCALE DATA CENTERS, YES.

03:48PM 8 Q. OKAY. AND ONE OF THE THINGS YOU LEARNED AS REFLECTED IN
03:48PM 9 THIS EXHIBIT IS THAT YOU NEED TO DEVELOP ALTERNATIVES TO THE
03:48PM 10 CLI TO MEET THEIR NEEDS, DON'T YOU?

03:48PM 11 A. TO BE HONEST, I DON'T KNOW THAT I'VE HAD A CHANCE TO REALLY
03:48PM 12 GO THROUGH THIS DOCUMENT BEFORE. I BELIEVE MY NAME IS HERE AS
03:48PM 13 ONE OF THE, WHAT'S CALLED PHASE THREE SUGGESTIONS, IS TO
03:48PM 14 EXPLORE OPPORTUNITIES WITHIN THE TOOLS AND ANALYTIC SPACE. SO
03:48PM 15 I DON'T THINK THIS HAS ANYTHING TO DO WITH THE CLI IN
03:49PM 16 PARTICULAR.

03:49PM 17 Q. OKAY. WELL YOU TESTIFIED ON DIRECT EXAMINATION ABOUT APPLE
03:49PM 18 AND WHAT YOU -- HOW YOU INTERACTED WITH APPLE AND YOU GOT TO
03:49PM 19 LEARN WHAT THEIR NEEDS WERE, RIGHT?

03:49PM 20 A. ABSOLUTELY.

03:49PM 21 Q. RIGHT. SO LET'S LOOK THEN AT THE PAGE, IT'S HARD TO READ
03:49PM 22 THE PAGINATION BUT IT'S THE PAGE ENDING IN 3781 IN THE SMALL
03:49PM 23 NUMBERS ON THE BOTTOM RIGHT.

03:49PM 24 SO THIS IS A SUMMARY OF CISCO'S ASSESSMENT OF APPLE ON THIS
03:49PM 25 MEGASCALE DATA CENTER PROJECT, RIGHT

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:49PM 1 A. CORRECT.

03:49PM 2 Q. AND ONE OF THE OBSERVATIONS ABOUT TWO THIRDS OF THE WAY

03:49PM 3 DOWN IS THEY DON'T WANT CLI OR SNMP, DO YOU SEE THAT?

03:49PM 4 A. OKAY, YES.

03:49PM 5 Q. THAT WAS CISCO'S ASSESSMENT OF APPLE'S NEEDS, RIGHT? AND

03:50PM 6 THE STATEMENT GOES ON TO SAY, THEY WANT RESTFUL INTERFACES OR

03:50PM 7 JSON AT LEAST XML IS SLOW AND NOT FULLY FORMED. AND LET ME

03:50PM 8 JUST PAUSE THERE AND ASK YOU, JSON, THAT'S A PROGRAMMING

03:50PM 9 LANGUAGE, CORRECT?

03:50PM 10 A. CORRECT.

03:50PM 11 Q. AND THAT'S A LANGUAGE THAT IS CURRENTLY BEING USED NOW TO

03:50PM 12 PROVIDE SOME ADDITIONAL INTERFACE CAPABILITY BEYOND

03:50PM 13 COMMAND-LINE INTERFACE, IS THAT TRUE?

03:50PM 14 A. I BELIEVE THAT'S TRUE. NOW JSON RESTFUL INTERFACES ARE

03:50PM 15 EXAMPLES OF PROGRAMATIC INTERFACES. ONE OF THE THINGS WE KNOW

03:50PM 16 IS THAT THESE KINDS OF TRENDS COME AND GO, BUT YES, AT THAT

03:50PM 17 POINT THESE ARE THE TRENDS THAT ARE BEING DISCUSSED.

03:50PM 18 Q. OKAY. AND WELL, LET'S SEE, THIS, THE DATE OF THIS DOCUMENT

03:51PM 19 WAS NOVEMBER 2013 SO THAT WAS ONLY A FEW MONTHS AFTER YOU

03:51PM 20 ARRIVED AT CISCO, IS THAT ABOUT RIGHT?

03:51PM 21 A. DECEMBER 2013, CORRECT -- NOVEMBER 2013.

03:51PM 22 Q. NOVEMBER 2013. OKAY. SO LET'S FAST FORWARD A YEAR THEN,

03:51PM 23 BECAUSE WASN'T IT TRUE MS. BAKAN THAT EVEN A YEAR LATER CISCO

03:51PM 24 WAS STILL TALKING ABOUT ITS NEED TO DEVELOP A JSON ALTERNATIVE

03:51PM 25 TO THE CLI FOR PURPOSES OF PROVIDING INCREASED PROGRAMMABILITY,

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:51PM 1 DO YOU REMEMBER THAT?

03:51PM 2 A. SO WE LOOK AT OPTIONS FOR PROVIDING CAPABILITIES OUR
03:51PM 3 CUSTOMERS MIGHT WANT. WE HAVE LOTS OF DIFFERENT CUSTOMERS WITH
03:51PM 4 DIFFERENT NEEDS. SO SOME CUSTOMERS WILL WANT CERTAIN FEATURES.
03:51PM 5 THIS IS JUST PART OF BUILDING PRODUCTS, SOME CUSTOMERS WILL
03:51PM 6 WANT ONE TYPE OF A FEATURE VERSUS ANOTHER. SO YES, CERTAIN
03:52PM 7 CUSTOMERS WOULD ASK FOR PROGRAMMATIC INTERFACES, WHEREAS OTHERS
03:52PM 8 MAY NOT.

03:52PM 9 Q. OKAY. WELL, I GUESS A FEW MONTHS LATER, THREE MONTHS LATER
03:52PM 10 IN ABOUT FEBRUARY 2014, DO YOU REMEMBER A DISCUSSION WITH YOUR
03:52PM 11 COLLEAGUES IN WHICH THEY RECOGNIZED THAT IT WAS ARISTA, NOT
03:52PM 12 CISCO, WHO HAD THE BEST DEVICE PROGRAMMABILITY AVAILABLE AT
03:52PM 13 THAT TIME, DO YOU REMEMBER THAT DISCUSSION?

03:52PM 14 A. YES, I DO.

03:52PM 15 Q. SO LET'S LOOK AT EXHIBIT 6736 IN YOUR BINDER. DO YOU HAVE
03:52PM 16 THAT IN FRONT OF YOU?

03:52PM 17 A. YES, I DO.

03:52PM 18 Q. THIS IS AN E-MAIL THAT -- IN WHICH YOU ARE COPIED ON,
03:52PM 19 CORRECT?

03:53PM 20 A. YES.

03:53PM 21 Q. AND IT IS FROM YOUR COLLEAGUES AT CISCO, RIGHT?

03:53PM 22 A. CORRECT. THESE ARE FROM THE TACTICAL MARKETING ENGINEER,
03:53PM 23 IT IS LEADER OF THE TECHNICAL MARKETING ENGINEERING TEAM.
03:53PM 24 THEIR JOB IS TO ESSENTIALLY GET COMPETITIVE CAPABILITIES IN THE
03:53PM 25 MARKET AND BE VERY VIGILANT AND THEY ARE KIND OF LIKE THE

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:53PM 1 PEOPLE WHO WANT TO MAKE SURE THAT WE ARE ALWAYS LOOKING OUT TO
03:53PM 2 MAKE SURE THAT WE BUILD BETTER CAPABILITIES THAN THE
03:53PM 3 COMPETITION.

03:53PM 4 Q. OKAY.

03:53PM 5 MR. FERRALL: YOUR HONOR, I WOULD OFFER EXHIBIT 6736
03:53PM 6 IN EVIDENCE.

03:53PM 7 THE COURT: ANY OBJECTION?

03:53PM 8 MR. NELSON: NO OBJECTION, YOUR HONOR.

03:53PM 9 THE COURT: IT WILL BE ADMITTED.

03:53PM 10 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 6736, HAVING BEEN
03:53PM 11 PREVIOUSLY MARKED FOR IDENTIFICATION, WAS ADMITTED INTO
03:53PM 12 EVIDENCE.)

03:53PM 13 MR. FERRALL:

03:53PM 14 Q. SO IF WE CAN LOOK AT THIS A LITTLE MORE CLOSELY, THIS IS AT
03:53PM 15 THE TOP, THIS IS AN E-MAIL FROM MR. KUMAR REDDY HE'S THE SENIOR
03:53PM 16 MANAGER OF TECHNICAL MARKETING ENGINEERING AT CISCO, RIGHT?

03:53PM 17 A. CORRECT.

03:53PM 18 Q. AND YOU ARE ON THE CC LINE?

03:53PM 19 A. YES.

03:53PM 20 Q. AND I WON'T GO THROUGH ALL THE NAMES HERE, BUT AMONG THE
03:54PM 21 PEOPLE IS MR. PRADEEP KATHAIL?

03:54PM 22 A. CORRECT.

03:54PM 23 Q. AND HE'S PRETTY SENIOR AT CISCO, RIGHT?

03:54PM 24 A. YES.

03:54PM 25 Q. HE IS CHIEF SOFTWARE ARCHITECT, THAT'S HIS TITLE, I THINK?

CROSS-EXAMINATION OF MS. BAKAN BY MR. FERRALL

03:54PM 1 A. I BELIEVE SO, YES.

03:54PM 2 Q. SO FEBRUARY 2014, MR. REDDY WAS WRITING TO YOU ALL AND
03:54PM 3 SAYING IN THE FIRST PARAGRAPH THERE AT THE TOP, ARISTA HAS
03:54PM 4 ARGUABLY THE BEST DEVICE PROGRAMMABILITY TODAY?

03:54PM 5 A. SO THIS WAS THREE MONTHS AFTER --

03:54PM 6 Q. LET ME ASK YOU THE NEXT QUESTION. HE GOES ON TO SAY, WE
03:54PM 7 NEED TO EQUAL OR EXCEED WHAT THEY CAN DO, RIGHT?

03:54PM 8 A. THIS IS HIS OPINION, CORRECT.

03:54PM 9 Q. HAS OPINION IS CISCO HAS GOT SOME CATCHES UP TO DO, RIGHT?

03:54PM 10 A. THIS IS HIS OPINION, CORRECT.

03:54PM 11 Q. AND AMONG THE THINGS HE LISTS THAT CISCO NEEDS TO EQUAL OR
03:55PM 12 EXCEED IS, LET'S GO TO THE SECOND ONE, REST JSON INTERFACE TO
03:55PM 13 CLI?

03:55PM 14 A. YES.

03:55PM 15 Q. SO YOU UNDERSTOOD HIS VIEW WAS THAT CISCO NEEDS TO DEVELOP
03:55PM 16 A JSON INTERFACE TO CLI TO CATCH UP TO ARISTA, AS OF THIS TIME,
03:55PM 17 RIGHT?

03:55PM 18 A. CORRECT -- WELL, YES. I THINK IT'S BASICALLY SAYING THAT
03:55PM 19 WE HAVE TO BUILD THOSE INTERFACES. I DON'T KNOW THAT IT'S
03:55PM 20 SAYING THAT WE HAVE TO DO THAT TO CATCH UP WITH ARISTA, IT
03:55PM 21 DOESN'T SAY THAT HERE.

03:55PM 22 Q. OKAY. YOU RECOGNIZE SOME OF THOSE OTHER FEATURES THAT
03:55PM 23 MR. REDDY IS TALKING ABOUT THERE ARE ARISTA INNOVATIONS LIKE IN
03:55PM 24 THE THIRD BULLET POINT, VM TRACE, THAT'S AN ARISTA INNOVATION,
03:56PM 25 RIGHT?

REDIRECT EXAMINATION OF MS. BAKAN BY MR. NELSON

03:56PM 1 A. I'M NOT AWARE OF THAT PARTICULAR TECHNOLOGY.

03:56PM 2 Q. OKAY. YOU ARE AWARE THAT CISCO LATER CAME OUT WITH A
03:56PM 3 VERSION OF THAT CALLED VM TRACKER; ARE YOU FAMILIAR WITH THAT?

03:56PM 4 A. NO.

03:56PM 5 Q. LANS. DO YOU KNOW THAT AS AN ARISTA INNOVATION?

03:56PM 6 A. NO, I DO NOT.

03:56PM 7 MR. FERRALL: ALL RIGHT.

03:56PM 8 NO FURTHER QUESTIONS, YOUR HONOR.

03:56PM 9 THANK YOU.

03:56PM 10 THE COURT: MR. NELSON, ANY REDIRECT FOR THIS
03:56PM 11 WITNESS?

03:56PM 12 MR. NELSON: THANK YOU, YOUR HONOR.

03:56PM 13

03:56PM 14 **REDIRECT EXAMINATION BY MR. NELSON**

03:56PM 15

03:56PM 16 BY MR. NELSON:

03:56PM 17 Q. GOOD AFTERNOON.

03:56PM 18 A. HELLO.

03:56PM 19 Q. SO I JUST HAVE A FEW QUESTIONS FOR YOU?

03:56PM 20 A. SURE.

03:56PM 21 Q. THERE WAS SOME QUESTIONS ASKED ABOUT AUTOMATION, DO YOU
03:56PM 22 RECALL?

03:56PM 23 A. YES.

03:56PM 24 Q. CAN YOU EXPLAIN TO US WHAT THAT IS?

03:56PM 25 A. SO AUTOMATION IS A MECHANISM BY WHICH YOU, FOR AUTOMATING

REDIRECT EXAMINATION OF MS. BAKAN BY MR. NELSON

03:56PM 1 THE NETWORK DEVICES, YOU ARE ABLE TO LET'S SAY HAVE A SET OF
03:56PM 2 PROGRAMS THAT ARE RUNNING OUTSIDE OF THE NETWORK DEVICE TO
03:56PM 3 ISSUE COMMANDS TO THE BOXES THEMSELVES.

03:56PM 4 YOU COULD DO THAT IN PARALLEL COMMANDS, MEANING YOU COULD
03:56PM 5 DO THAT ACROSS MULTIPLE DEVICES AT THE SAME TIME. ALL OF THOSE
03:57PM 6 PROGRAMS, THOSE AUTOMATION-BASED PROGRAMS, TODAY ULTIMATELY USE
03:57PM 7 THE CLI ON THE DEVICE TO EXECUTE THOSE COMMANDS. SO THOSE ARE
03:57PM 8 THINGS THAT WE REFER TO WHEN WE TALK ABOUT AUTOMATION

03:57PM 9 Q. OKAY. SO YOU SAID -- ANOTHER THING YOU TALKED ABOUT WAS
03:57PM 10 SOFTWARE DEFINED NETWORKS, IS THAT RIGHT?

03:57PM 11 A. YES.

03:57PM 12 Q. IS THAT DIFFERENT FROM AUTOMATION?

03:57PM 13 A. SO AN AUTOMATION CAPABILITY COULD BE USED IN CONJUNCTION
03:57PM 14 WITH A SOFTWARE DEFINED NETWORK AND TECHNOLOGY. SO A SOFTWARE
03:57PM 15 DEFINED NETWORKING IS BASICALLY WHEN YOU ARE ABLE TO TAKE THE
03:57PM 16 CAPABILITY ON THE DEVICES THAT ARE IN THE OPERATING SYSTEMS,
03:57PM 17 AND ESSENTIALLY ABSTRACT AWAY, AND IT'S -- IN A SIMPLE WAY YOU
03:57PM 18 ESSENTIALLY HAVE ANOTHER SOFTWARE LAYER OUTSIDE OF THE DEVICE,
03:57PM 19 THAT CAN AUTOMATE ACROSS THE DEVICES. AND SOME OF THE
03:57PM 20 CAPABILITIES WITHIN THAT LAYER ARE ABSTRACTIONS OF THE
03:58PM 21 TECHNOLOGY THAT'S IN THE OPERATING SYSTEM ITSELF.

03:58PM 22 Q. SO THE -- DOES CISCO, FOR ITS PRODUCTS, SOME OF THE
03:58PM 23 SWITCHES AND ROUTERS THAT WE TALKED ABOUT, DO THEY HAVE
03:58PM 24 AUTOMATION TOOLS?

03:58PM 25 A. WE DO. WE DO HAVE AUTOMATION TOOLS THAT WE INVESTED IN AND

REDIRECT EXAMINATION OF MS. BAKAN BY MR. NELSON

03:58PM 1 AND PROVIDE TO CUSTOMERS TODAY.

03:58PM 2 Q. OKAY. AND WHAT KINDS OF THINGS, BASED ON YOUR EXPERIENCE
03:58PM 3 WITH THE CUSTOMERS, WOULD THEY USE THE AUTOMATION TOOLS FOR?

03:58PM 4 A. GREAT QUESTION. SO AUTOMATION TOOLS ARE USED MOSTLY TO
03:58PM 5 CONDUCT OPERATIONS, ESSENTIALLY ISSUE COMMANDS TO ESSENTIALLY
03:58PM 6 MANAGE THE NETWORK IN THE A VERY STEADY STATE ENVIRONMENT.
03:58PM 7 WITH AUTOMATION YOU DON'T GET TO TROUBLE SHOOT THE NETWORK.

03:58PM 8 IF THE NETWORK IS GOING BAD, AND IF THE NETWORK IS FAILING,
03:58PM 9 AUTOMATION TOOLS, WHICH ARE ESSENTIALLY JUST CONFIGURING THE
03:59PM 10 DEVICES TO ESSENTIALLY PROVIDE A CERTAIN FUNCTIONALITY, THOSE
03:59PM 11 TOOLS WILL NOT THEN TROUBLE SHOOT THE DEVICES. THOSE ARE
03:59PM 12 DIFFERENT TYPE OF TECHNOLOGIES IN ITSELF. VERY DIFFERENT TYPE
03:59PM 13 OF CAPABILITY THAN AUTOMATION TECHNOLOGIES. THOSE ARE
03:59PM 14 TYPICALLY CALLED MONITORING AND TROUBLE SHOOTING TOOLS.

03:59PM 15 WITH CLI, CLI PROVIDES INHERENT CAPABILITY ON THE DEVICE
03:59PM 16 WHERE YOU COULD ISSUE ALL OF THOSE COMMANDS TO ESSENTIALLY
03:59PM 17 CONFIGURE THE DEVICE, MANAGE THE DEVICE, AS WELL AS TROUBLE
03:59PM 18 SHOOT THE DEVICE.

03:59PM 19 Q. SO THEN BASED UPON YOUR EXPERIENCE WITH THE CUSTOMERS THAT
03:59PM 20 YOU DESCRIBED, EVEN WITH THESE AUTOMATION TOOLS, DID CUSTOMERS
03:59PM 21 STILL USE CLI?

03:59PM 22 A. ABSOLUTELY.

03:59PM 23 Q. AND FOR WHAT KINDS OF THINGS?

03:59PM 24 A. WELL, IT'S THE MOST TRUSTWORTHY MECHANISM BY WHICH YOU CAN
04:00PM 25 GET INFORMATION ABOUT WHAT'S HAPPENING ON THE DEVICE.

REDIRECT EXAMINATION OF MS. BAKAN BY MR. NELSON

04:00PM 1 SO IF YOU SEE THAT A PARTICULAR NETWORK IS PERFORMING
04:00PM 2 POORLY AND YOU ARE LOOKING TO FIND OUT SPECIFICALLY WHERE IS
04:00PM 3 THAT OCCURRING, THE NETWORK ADMINISTRATORS WILL USE CLI TO
04:00PM 4 SPECIFICALLY LOOK AT THE DEVICES THAT ARE PROBLEM ATTIC DEVICES
04:00PM 5 AND TO TROUBLE SHOOT THOSE DEVICES DIRECTLY

04:00PM 6 MR. NELSON: THANK YOU. I HAVE NO FURTHER QUESTIONS.

04:00PM 7 THE COURT: ANYTHING ELSE FOR MS. BAKAN?

04:00PM 8 MR. FERRALL: NO, YOUR HONOR. THANK YOU.

04:00PM 9 THE COURT: THANK YOU FOR YOUR TESTIMONY, MS. BAKAN,
04:00PM 10 YOU ARE FREE TO GO.

04:00PM 11 MR. NELSON, YOUR NEXT WITNESS?

04:00PM 12 MR. NELSON: OUR NEXT WITNESS WILL BE MR. KIRK
04:00PM 13 LOUGHEED.

04:00PM 14 THE COURT: MR. LOUGHEED, IF YOU WOULD PLEASE COME
04:01PM 15 FORWARD TO THE WITNESS STAND, PLEASE, AND STAND TO BE SWORN.

04:01PM 16

04:01PM 17 **KIRK LOUGHEED,**

04:01PM 18 BEING CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF,
04:01PM 19 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS
04:01PM 20 FOLLOWS:

04:01PM 21 THE WITNESS: YES.

04:01PM 22 THE CLERK: THANK YOU. PLEASE BE SEATED.

04:01PM 23 MR. PAK: GOOD AFTERNOON, YOUR HONOR.

04:01PM 24 MAY I APPROACH THE WITNESS?

04:01PM 25 THE COURT: YES.

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:01PM 1 THE CLERK: IF YOU WOULD PLEASE STATE YOUR NAME AND
04:01PM 2 SPELL YOUR LAST NAME FOR THE RECORD.

04:01PM 3 THE WITNESS: MY NAME IS KIRK STEWART LOUGHEED.
04:01PM 4 K-I-R-K. S-T-E-W-A-R-T. LOUGHEED IS SPELLED L-O-U-G-H-E-E-D.

04:01PM 5

04:01PM 6 **DIRECT EXAMINATION BY MR. PAK**

04:01PM 7

04:01PM 8 BY MR. PAK:

04:01PM 9 Q. GOOD AFTERNOON, MR. LOUGHEED. FEEL FREE TO ADJUST THE MIC,
04:01PM 10 IF NECESSARY.

04:01PM 11 MAY I PROCEED, YOUR HONOR?

04:01PM 12 THE COURT: YES.

04:01PM 13 BY MR. PAK:

04:02PM 14 Q. MR. LOUGHEED, WOULD YOU PLEASE INTRODUCE YOURSELF TO THE
04:02PM 15 JURY?

04:02PM 16 A. MY NAME IS KIRK LOUGHEED.

04:02PM 17 Q. AND WHERE DO YOU WORK, MR. LOUGHEED?

04:02PM 18 A. I WORK AT CISCO SYSTEMS.

04:02PM 19 Q. AND WHAT IS YOUR JOB TITLE?

04:02PM 20 A. MY JOB TITLE IS CISCO FELLOW.

04:02PM 21 Q. AND WHAT DOES IT MEAN TO BE A CISCO FELLOW WITHIN THE
04:02PM 22 ORGANIZATION?

04:02PM 23 A. THAT'S A HANDFUL OF VERY SENIOR ENGINEERS WHO TYPICALLY
04:02PM 24 TRANSFORM THE NETWORKING INDUSTRY SOME POINT IN THEIR CAREER.

04:02PM 25 Q. AND HOW LONG HAVE YOU SPENT WORKING AT CISCO?

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:02PM 1 A. 30 YEARS, SINCE JULY OF 1986.

04:02PM 2 Q. AND WHAT ARE YOUR PRIMARY JOB RESPONSIBILITIES AS A CISCO
04:02PM 3 FELLOW?

04:02PM 4 A. THESE DAYS I'M INVOLVED IN INNOVATION PROGRAMS AT CISCO.

04:02PM 5 Q. AND CAN YOU GIVE THE JURY AN EXAMPLE OF AN INNOVATION
04:02PM 6 PROGRAM THAT YOU ARE DIRECTLY INVOLVED IN?

04:02PM 7 A. ONE PROGRAM THAT I'M INVOLVED IN IS THE TECH FUND WHICH, IF
04:02PM 8 AN ENGINEER COMES UP WITH AN IDEA, A REALLY GREAT IDEA IN THE
04:02PM 9 COURSE OF DOING THEIR REGULAR WORK, BUT IT'S NOT RELATED TO THE
04:02PM 10 REGULAR WORK, THEY CAN APPLY TO THE TECH FUND TO GET FUNDING TO
04:03PM 11 BUILD A PROTOTYPE OF THEIR IDEA.

04:03PM 12 AND I'M A MEMBER OF THE COMMITTEE THAT REVIEWS AND SELECTS
04:03PM 13 THE BEST IDEAS. AND I ALSO MET WITH THE ENGINEERS, GIVING THEM
04:03PM 14 THE ADVANTAGE OF MY EXPERIENCE SO THEY CAN BE SUCCESSFUL.

04:03PM 15 Q. MR. LOUGHEED, DURING YOUR 30-YEAR YEAR AT CISCO, HAVE YOU
04:03PM 16 WON ANY AWARDS FOR YOUR WORK?

04:03PM 17 A. CISCO DOES NOT GIVE AWARDS TO INDIVIDUALS, IT GIVES AWARDS
04:03PM 18 TO TEAMS OF PEOPLE. THERE IS AN ANNUAL, WHAT'S CALLED PIONEER
04:03PM 19 AWARD. IT'S GIVEN FOR INNOVATION. AND I HAVE BEEN A MEMBER OF
04:03PM 20 TWO TEAMS THAT WON PIONEER AWARDS.

04:03PM 21 Q. CAN YOU GIVE US AN EXAMPLE OF ONE OF THE PIONEER AWARDS
04:03PM 22 THAT YOU WON AS PART OF THIS TEAM?

04:03PM 23 A. ACTUALLY, THE VERY FIRST PIONEER AWARD WAS GIVEN TO A TEAM
04:04PM 24 FOR WHICH I WAS THE LEAD ARCHITECT AND WAS DESIGNING A NEW
04:04PM 25 OPERATING SYSTEM FOR -- A NEW OPERATING SYSTEM THAT POTENTIALLY

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:04PM 1 BECAME THE BASIS FOR WHAT WE SELL TODAY AS IOS XR.

04:04PM 2 Q. THAT'S IOS XR?

04:04PM 3 A. YES.

04:04PM 4 Q. CAN YOU TELL THE JURY WHAT THAT IS, WHAT IS IOS XR?

04:04PM 5 A. IT'S A ROUTER OPERATING SYSTEM, CONTROLS A ROUTER, AND IT'S
04:04PM 6 AIMED AT THE SERVICE PROVIDER MARKET PLACE, THINGS LIKE AT&T
04:04PM 7 AND VERIZON, AND COMCAST.

04:04PM 8 AND IT'S VERY, IT'S VERY ROBUST IMPLEMENTATION, IT USES
04:04PM 9 MODERN SOFTWARE TECHNIQUES SO THAT IF THERE'S A SOFTWARE
04:04PM 10 PROBLEM THE SYSTEM KEEPS ON RUNNING AND DOESN'T CRASH. IT
04:04PM 11 DOESN'T DROP THE NETWORK ON YOU.

04:04PM 12 Q. AND WHY IS THAT IMPORTANT TO SERVICE PROVIDERS LIKE THE
04:04PM 13 TELEPHONE COMPANIES AND THE CABLE OPERATORS?

04:05PM 14 A. WELL, BECAUSE IT'S -- IF THE NETWORK GOES AWAY THESE DAYS,
04:05PM 15 EVERYBODY NOTICES IT. SO IF WE WANT TO BUILD AN INFRASTRUCTURE
04:05PM 16 THAT'S REALLY SOLID, SO THAT IT DOESN'T GO AWAY, THE INTERNET
04:05PM 17 IS ALWAYS WORKING.

04:05PM 18 Q. CAN YOU TELL THE JURY WHY YOU'VE STAYED HERE AT CISCO FOR
04:05PM 19 SO LONG, WHAT'S DRAWING YOU TO THE PLACE?

04:05PM 20 A. I LIKE THE PEOPLE. I LIKE THE CULTURE.

04:05PM 21 Q. AND JUST STEPPING BACK, SO WHERE DID YOU GROW UP?

04:05PM 22 A. I GROW UP ON A FARM IN NORTH WESTERN MINNESOTA.

04:05PM 23 Q. AND WHERE DO YOU LIVE NOW?

04:05PM 24 A. I LIVE IN SARATOGA.

04:05PM 25 Q. AND HOW LONG HAVE YOU LIVED IN THE BAY AREA?

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:05PM 1 A. ABOUT 40 YEARS SINCE 1976.

04:05PM 2 Q. CAN YOU TELL US BRIEFLY ABOUT YOUR FAMILY?

04:05PM 3 A. I'M MARRIED. I HAVE TWO ADULT DAUGHTERS. ONE OF THEM

04:05PM 4 WORKS AS A PARALEGAL IN SAN JOSE. THE YOUNGER ONE WORKS AS A

04:05PM 5 SOFTWARE ENGINEER IN THE LOS ANGELES AREA, AND SHE USED TO

04:06PM 6 TEACH HIGH SCHOOL LATIN.

04:06PM 7 Q. CAN YOU PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL

04:06PM 8 BACKGROUND.

04:06PM 9 A. I HAVE A BACHELOR'S IN PHYSICS FROM STANFORD UNIVERSITY.

04:06PM 10 Q. AND HOW DID YOU END UP AT STANFORD FROM MINNESOTA?

04:06PM 11 A. WHEN IT CAME TIME TO APPLY TO COLLEGES, MY PARENTS TOLD ME

04:06PM 12 THAT I -- THAT LOOK ELSEWHERE BESIDES MINNESOTA. SO I LOOKED

04:06PM 13 ON THE EAST AND WEST COAST, AND I HAD MY CHOICE OF SCHOOLS, AND

04:06PM 14 I ENDED UP SELECTING STANFORD.

04:06PM 15 Q. AND FOR HOW LONG DID YOU -- WHEN DID YOU GRADUATE FROM

04:06PM 16 STANFORD AGAIN?

04:06PM 17 A. I GRADUATED IN 1981.

04:06PM 18 Q. OKAY. AND WHAT DID YOU DO AFTER GRADUATING FROM STANFORD?

04:06PM 19 A. I WORKED AT AN ASSISTANT PROGRAMMER AT STANFORD

04:06PM 20 SPECIALIZING IN A COMPUTER SYSTEM CALLED THE DEC SYSTEMS 20.

04:06PM 21 Q. WAS THAT DEC SYSTEM 20?

04:06PM 22 A. DECK SYSTEM-20.

04:07PM 23 Q. AND WHEN YOU SAY SYSTEMS PROGRAMMER, WHAT KIND OF JOB WAS

04:07PM 24 THAT?

04:07PM 25 A. THAT WAS A -- THESE DAYS IT WOULD BE CALLED A SYSTEMS

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:07PM 1 ADMINISTRATOR. IT IS MAKING SURE THAT THE FACULTY STAFF AND
04:07PM 2 STUDENTS COULD CREATE ACCOUNTS FOR THEM, MAKE SURE THE PRINTERS
04:07PM 3 ARE WORKING, INSTALL SOFTWARE UPDATES AND BASICALLY HELP THEM
04:07PM 4 WHEN THEY HAVE QUESTIONS.

04:07PM 5 Q. SO WHEN THE NETWORK GOES DOWN, THEY BLAME YOU?

04:07PM 6 A. WELL, ACTUALLY, I STARTED EARLY ENOUGH THAT THERE WASN'T A
04:07PM 7 NETWORK ATTACHED TO THIS.

04:07PM 8 Q. OKAY. GOOD.

04:07PM 9 SO -- AND HOW LONG DID YOU HAVE THAT JOB AT STANFORD AS A
04:07PM 10 SYSTEMS ADMINISTRATOR?

04:07PM 11 A. SIX YEARS.

04:07PM 12 Q. SIX YEARS. AND WHAT DID YOU DO AFTER STANFORD?

04:07PM 13 A. I JOINED CISCO ITEMS.

04:07PM 14 Q. AND JUST GOING BACK IN TIME, WHEN DID YOU FIRST BECOME
04:07PM 15 AWARE OF CISCO AS A COMPANY?

04:07PM 16 A. IN LEN BOSACK, B-O-S-A-C-K, AND SANDY LEARNER,
04:08PM 17 L-E-A-R-N-E-R, WERE COLLEAGUES OF MINE AT STANFORD. THEY
04:08PM 18 INCORPORATED THE COMPANY IN DECEMBER OF 1984.

04:08PM 19 Q. AND IN 1985 WHEN YOU CAME ACROSS MR. BOSACK AND
04:08PM 20 MS. LEARNER, WHAT WERE THEY TRYING TO BUILD AT CISCO?

04:08PM 21 A. WELL, GOING BACK A LITTLE BIT IN SPRING OF 1984, THE
04:08PM 22 DIGITAL EQUIPMENT CORPORATION, THE MAKER OF THE DEC SYSTEM 20
04:08PM 23 HAD DISCONTINUED THE PRODUCT LINE. THERE WEREN'T GOING TO BE
04:08PM 24 ANY MORE NEW MACHINES. AND LEN HAD WORKED ON DEC SYSTEMS-20 AS
04:08PM 25 AN EMPLOYEE AT DEC AND HE FELT THAT HE COULD ACTUALLY EXTEND

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:08PM 1 THE PRODUCT LINE OUTSIDE OF DEC.

04:08PM 2 Q. AND HAVE YOU PREPARED SOME SLIDES TO HELP US UNDERSTAND
04:09PM 3 YOUR TESTIMONY HERE TODAY?

04:09PM 4 A. YES.

04:09PM 5 Q. OKAY. SO, MR. FISHER, LET'S HAVE SLIDE 2.

04:09PM 6 SO WHAT ARE WE LOOKING AT HERE ON SLIDE 2?

04:09PM 7 A. YOU ARE LOOKING AT A DEC SYSTEM-20. IT'S A BIG MACHINE
04:09PM 8 THAT'S A MAIN FRAME. IT PHYSICALLY, IT'S ABOUT 5 FEET HIGH, IT
04:09PM 9 CAN BE 20 TO 30 FEET LONG DEPENDING ON HOW MANY CABINETS YOU
04:09PM 10 PUT ON.

04:09PM 11 IT TAKES ON AN AWFUL LOT OF POWER, SPECIALIZED ELECTRICAL
04:09PM 12 POWER AND IS IN A ROOM THAT'S COOLED BY HEAVY AIR CONDITIONERS,
04:09PM 13 SITS ON A RAISED FLOOR SO THAT YOU CAN RUN CABLES UNDERNEATH.

04:09PM 14 Q. AND SO IS THIS TYPE OF MAINFRAME PRODUCT, IS THAT RELATED
04:09PM 15 TO THE TYPE OF PRODUCTS THAT CISCO MAKES TODAY?

04:09PM 16 A. NO, THEY ARE NOTHING ALIKE.

04:09PM 17 Q. SO WHAT HAPPENED TO MR. BOSACK'S INITIAL IDEA TO MAKE HIS
04:09PM 18 VERSION OF THE DEC SYSTEM?

04:09PM 19 A. THE VENTURE CAPITALISTS LISTENED TO HIM POLITELY AND THEN
04:09PM 20 DID NOT RETURN HIS PHONE CALLS.

04:09PM 21 Q. AND WHAT HAPPENED TO YOU? SO WHEN THE DEC SYSTEM-20 IS
04:10PM 22 ANNOUNCED TO BE DISCONTINUED, HOW DID THAT AFFECT YOUR JOB AT
04:10PM 23 STANFORD?

04:10PM 24 A. WELL, SO THE DEC SYSTEM-20 WAS OBSOLETE, AND ESSENTIALLY I
04:10PM 25 WAS OBSOLETE AT THE TIME, SO I NEEDED TO TAKE A LOOK AROUND FOR

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:10PM 1 A NEW TECHNOLOGY AREA THAT I COULD BECOME EXPERT IN.

04:10PM 2 Q. AND DID YOU FIND SOMETHING THAT PEAKED YOUR INTEREST?

04:10PM 3 A. YES, NETWORKING. NETWORKING WAS SOMETHING THAT WAS A BIG
04:10PM 4 THING AT STANFORD IN THOSE DAYS.

04:10PM 5 Q. AND AT THE TIME AS PART OF YOUR EMPLOYMENT AGREEMENT WITH
04:10PM 6 STANFORD, DID YOU HAVE ANY RESTRICTIONS ON TYPE OF SIDE
04:10PM 7 PROJECTS THAT YOU COULD WORK ON?

04:10PM 8 A. NO. AS LONG AS I KEPT THE COMPUTERS UP AND RUNNING AND THE
04:10PM 9 FACULTY AND THE STAFF, THE FACULTY AND THE STUDENTS HAPPY, IN
04:10PM 10 THAT ORDER, I COULD DO WHAT I WANT.

04:10PM 11 Q. GREAT. AND THEN DID YOU EVENTUALLY FIND A SPECIFIC
04:10PM 12 NETWORKING PROJECT THAT YOU WERE INTERESTED IN WORKING ON?

04:10PM 13 A. YES, I DID.

04:10PM 14 Q. WHAT WAS THAT PROJECT?

04:10PM 15 A. I WAS BUILDING AN IP ROUTER.

04:10PM 16 Q. AN IP ROUTER?

04:11PM 17 A. YES.

04:11PM 18 Q. CAN YOU TELL THE LADIES AND GENTLEMEN OF THE JURY WHAT AN
04:11PM 19 IP ROUTER WAS AT THAT TIME?

04:11PM 20 A. SO IP IS AN ACRONYM FOR INTERNET PROTOCOL. IT'S A STANDARD
04:11PM 21 WAY OF COMMUNICATING BETWEEN COMPUTERS OVER A NETWORK, AND A
04:11PM 22 ROUTER IS A DEVICE THAT CONNECTS NETWORKS TOGETHER.

04:11PM 23 ONE VERY COMMON USE OF A ROUTER IS IF YOU HAVE A HOME
04:11PM 24 NETWORK, COMPUTER ON THAT, IT SPEAKS IP, AND YOU WANT TO TALK
04:11PM 25 TO SOME COMPUTER OFF IN SOME OTHER PART OF THE WORLD, YOU WILL

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:11PM 1 SEND DATA TO YOUR ROUTER, THE ROUTER WILL LOOK AT WHAT'S CALLED
04:11PM 2 AN IP ADDRESS ON THAT DATA, AND THEN IT WILL FORWARD IT TO THE
04:11PM 3 SERVICE PROVIDER'S NETWORK, LIKE I SAID, AT&T OR COMCAST OR
04:11PM 4 WHOEVER IS PROVIDING THE SERVICE, AND THEN IT WILL THEN,
04:11PM 5 SUBSEQUENT ROUTERS WILL TAKE THAT DATA, PICK IT UP, LOOK AT
04:12PM 6 THAT IP ADDRESS AND SAY, OKAY, AND IT GOES HERE, IT GOES HERE,
04:12PM 7 IT GOES HERE UNTIL IT FINALLY REACHES ITS DESTINATION.

04:12PM 8 IT'S VERY MUCH LIKE THE POSTAL SYSTEM WHERE YOU WRITE AN
04:12PM 9 ADDRESS ON A LETTER AND THEN YOU POST THE LETTER AND THE POSTAL
04:12PM 10 SYSTEM BASICALLY PASSES THAT LETTER AROUND INSIDE ITSELF UNTIL
04:12PM 11 IT GETS DELIVERED AT THE OTHER END.

04:12PM 12 Q. AND, MR. LOUGHEED, DID YOU END UP WRITING YOUR OWN COMPUTER
04:12PM 13 CODE FOR THIS IP ROUTING PROJECT?

04:12PM 14 A. YES, I DID.

04:12PM 15 Q. AND AT THAT TIME IN THE 1985, 1986 TIMEFRAME, WAS THERE AN
04:12PM 16 OPPORTUNITY TO DEMONSTRATE THIS IP ROUTER SOFTWARE THAT YOU HAD
04:12PM 17 WRITTEN?

04:12PM 18 A. LEN BOSACK TOOK A COPY OF THE SOFTWARE OVER TO HP LABS
04:12PM 19 WHERE HE HAD BEEN A CONSULTANT, BASICALLY SHOWED THEM WHAT THE
04:12PM 20 SOFTWARE AND THE HARDWARE COULD DO. AND HP WAS VERY INTERESTED
04:12PM 21 IN IT AND ACTUALLY SUGGESTED SOME IMPROVEMENTS AND ENHANCEMENTS
04:13PM 22 TO THE SOFTWARE.

04:13PM 23 Q. AND IN ADDITION TO THIS PRIVATE DEMONSTRATION WITH HP LABS,
04:13PM 24 WAS THERE AN OPPORTUNITY TO DEMONSTRATE THE SOFTWARE TO A
04:13PM 25 LARGER PUBLIC?

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:13PM 1 A. YES. IN MAY OF 1986 LEN AND SANDY AND I WENT TO A TRADE
04:13PM 2 SHOW IN TEXAS, A COMMUNICATIONS TRADE SHOW, AND WE DEMONSTRATED
04:13PM 3 IT TO PEOPLE THAT WERE ATTENDING THAT CONFERENCE.

04:13PM 4 Q. AND HOW DID THE TRADE SHOW GO?

04:13PM 5 A. IT WENT VERY WELL. THERE WAS A LOT OF INTEREST IN THAT
04:13PM 6 TECHNOLOGY.

04:13PM 7 Q. SO AFTER YOU RETURNED WITH YOUR COLLEAGUES BACK FROM THE
04:13PM 8 TRADE SHOW, WAS THERE ANY TYPE OF DISCUSSION ABOUT WHAT TO DO
04:13PM 9 WITH YOUR IP ROUTER SOFTWARE?

04:13PM 10 A. YES, THERE WAS. LEN FIGURED THERE WAS A REAL STRONG
04:13PM 11 COMMERCIAL OPPORTUNITY THERE, AND SUGGESTED THAT AT SOME POINT
04:13PM 12 IN THE NEAR FUTURE WE WOULD HAVE TO LEAVE STANFORD TO ACTUALLY
04:13PM 13 PURSUE THAT.

04:13PM 14 AND PERSONALLY I WAS REALLY ENTHUSIASTIC ABOUT THAT. AS A
04:14PM 15 YOUNG GUY I WAS READING BOOKS ON SILICON VALLEY STARTUPS BACK
04:14PM 16 30 YEARS AGO, AND I WAS VERY ENTHUSED ABOUT GIVING THIS A TRY.
04:14PM 17 I WANTED TO GIVE IT A TRY. AND I FIGURED THAT IF IT FAILED FOR
04:14PM 18 SOME REASON, I COULD EASILY ENOUGH GET A JOB SOMEWHERE IN
04:14PM 19 SILICON VALLEY.

04:14PM 20 Q. AND WHAT WERE SOME OF THOSE STARTUP COMPANIES AROUND THAT
04:14PM 21 TIME THAT YOU WERE FAMILIAR WITH IN 1985?

04:14PM 22 A. SUN MICROSYSTEMS HAD COME OUT OF STANFORD AT THE TIME,
04:14PM 23 USING -- HAVING DEVELOPED SOME COMPUTER TECHNOLOGY. SILICON
04:14PM 24 GRAPHICS WAS ALSO -- CAME OUT BEFORE WE DID.

04:14PM 25 Q. OKAY. AND THEN DID THERE COME A TIME WHEN YOU ULTIMATELY

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:14PM 1 DECIDED TO LEAVE STANFORD TO PURSUE THE CISCO OPPORTUNITY FULL
04:14PM 2 TIME?

04:14PM 3 A. YES.

04:14PM 4 Q. AND WHEN WAS THAT?

04:14PM 5 A. THAT WAS IN JULY OF 1986, I RESIGNED.

04:14PM 6 Q. SO WHEN YOU RESIGNED FROM STANFORD AND YOU WERE LEAVING TO
04:15PM 7 JOIN CISCO FULL TIME, WAS THERE A DISCUSSION YOU HAD WITH
04:15PM 8 STANFORD ABOUT WHAT TO DO WITH THE SOFTWARE YOU HAD DEVELOPED?

04:15PM 9 A. YES. I DISCUSSED IT WITH MY BOSS, THERE WERE LETTERS
04:15PM 10 EXCHANGED. THERE'S BASICALLY AN HONEST DISAGREEMENT AS TO WHO
04:15PM 11 OWNED THE SOFTWARE, BUT WE LEFT AND THE -- STANFORD SENT US A
04:15PM 12 LETTER AND THE CEO OF THE COMPANY BASICALLY NEGOTIATED A
04:15PM 13 LICENSING AGREEMENT WITH STANFORD AND PAID FOR IT. SINCE THEN
04:15PM 14 STANFORD AND CISCO HAD A REAL GOOD RELATIONSHIP.

04:15PM 15 Q. AND AFTER YOU JOINED CISCO, HOW MANY EMPLOYEES WERE THERE
04:15PM 16 AT CISCO AT THE TIME?

04:15PM 17 A. AT THE TIME I JOINED CISCO, THERE WERE FOUR EMPLOYEES.
04:15PM 18 THERE WAS LEN AND SANDY, MYSELF AND THE ADMINISTRATOR SECRETARY
04:16PM 19 GENERAL PURPOSE GLUING TOGETHER PERSON NAMED CECILIA
04:16PM 20 STRICKLAND.

04:16PM 21 Q. LET'S TAKE A LOOK AT YOUR NEXT SLIDE. WHO IS THAT IN THE
04:16PM 22 PICTURE THERE?

04:16PM 23 A. THAT'S ME WITH A LOT MORE HAIR.

04:16PM 24 Q. OKAY. AND WHERE IS THIS, WHAT ARE WE LOOKING AT?

04:16PM 25 A. THIS IS IN ONE OF THE TWO SPARE BEDROOMS IN LEN AND SANDY'S

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:16PM 1 HOUSE, CECILIA SAT IN THE OTHER SPARE BEDROOM.

04:16PM 2 Q. SO I THOUGHT MOST STARTUPS CAME OUT OF A GARAGE, BUT THIS
04:16PM 3 ONE WAS A SPARE BEDROOM?

04:16PM 4 A. IT WAS A BIG HOUSE THAT HAD A COUPLE OF SPARE BEDROOMS.
04:16PM 5 OUR MANUFACTURING FACILITY WAS THE LIVING ROOM.

04:16PM 6 Q. AND WHAT ARE YOU DOING IN THIS PARTICULAR PICTURE?

04:16PM 7 A. I'M LOOKING AT A CIRCUIT BOARD THAT IS THE MAIN PROCESSING
04:16PM 8 UNIT FOR AN EARLY CISCO ROUTER CALLED HES.

04:16PM 9 Q. I SEE THERE'S A LITTLE TERMINAL THERE WHERE YOU CAN TYPE IN
04:16PM 10 SOME COMMANDS?

04:16PM 11 A. YES.

04:16PM 12 Q. WHERE IS THE ACTUAL COMPUTER IN THIS PICTURE?

04:16PM 13 A. IT'S BEHIND ME UNDERNEATH THAT PHONE. SOME PEOPLE THINK
04:17PM 14 THAT LOOKS LIKE A FILE CABINET, THAT'S JUST HP'S STYLING CIRCA
04:17PM 15 MID-1980'S.

04:17PM 16 Q. SO INSIDE THAT WAS THE ACTUAL COMPUTER YOU WERE USING?

04:17PM 17 A. THAT WAS THE COMPUTER THAT I WAS USING.

04:17PM 18 Q. OKAY. AND WHEN DID CISCO FIRST SHIP ITS FIRST PRODUCT?

04:17PM 19 A. AT THE END OF JULY, 1986, WE SHIPPED ABOUT 10 OR 12
04:17PM 20 SYSTEMS, BUILT THEM IN THE LIVING ROOM AND BOXED THEM UP AND
04:17PM 21 PUT THEM IN OUR CARS AND TOOK THEM DOWN TO UPS TO SEND OFF.
04:17PM 22 SEVERAL WENT TO HP'S AND OTHERS WENT TO VARIOUS UNIVERSITIES.

04:17PM 23 Q. LET'S TAKE A LOOK AT SLIDE 4. WHAT IS THIS ON THIS
04:17PM 24 PARTICULAR SLIDE?

04:17PM 25 A. THIS IS THE AGS, THE FIRST IP ROUTER THAT CISCO SHIPPED.

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:17PM 1 IT'S ABOUT 19 INCHES WIDE BY ABOUT A FOOT OR SO HIGH, AND MAYBE
04:18PM 2 18 INCHES OR 18 INCHES OR 20 INCHES DEEP.

04:18PM 3 Q. WHEN YOU SAY AGS, WHAT DOES THAT STAND FOR?

04:18PM 4 A. THAT STANDS FOR ADVANCED GATEWAY SERVER. GATEWAY BEING AN
04:18PM 5 OLD NAME FOR WHAT WE NOW CALL A ROUTER.

04:18PM 6 Q. AND WHAT WAS SO EXCITING ABOUT THE NEW AGS ROUTER THAT WE
04:18PM 7 ARE LOOKING AT HERE?

04:18PM 8 A. SO IT WAS ONE OF THE FIRST COMMERCIALY AVAILABLE IP
04:18PM 9 ROUTERS, AND USING INTERNET TECHNOLOGY AND THESE ROUTERS, YOU
04:18PM 10 COULD ACTUALLY BUILD VERY LARGE SCALE NETWORKS FOR THE FIRST
04:18PM 11 TIME. YOU COULD BUILD -- A BUSINESS COULD BUY THESE AND
04:18PM 12 CONNECT COMPUTERS ACROSS THE COUNTRY.

04:18PM 13 PREVIOUSLY, IF YOU WANTED TO DO SOMETHING LIKE THAT, YOU
04:18PM 14 EITHER HAD TO BUY THE SAME TECHNOLOGY THAT THE GOVERNMENT USED
04:18PM 15 FOR THE ARPA, AND THE ARPA CONTRACTOR WASN'T PARTICULARLY
04:18PM 16 INTERESTED IN SELLING YOU THAT STUFF, EITHER.

04:19PM 17 OR YOU USED -- THE TECHNOLOGY WAS CALLED BRIDGING
04:19PM 18 TECHNOLOGY WHICH PRETENDED THAT EVERYTHING WAS ONE BIG ETHERNET
04:19PM 19 CABLE. AND THAT WORKED FOR A FEW HUNDRED COMPUTERS AND AFTER
04:19PM 20 THAT IT JUST -- YOU WOULD FAIL. YOU COULDN'T DO MUCH MORE THAN
04:19PM 21 THAT.

04:19PM 22 Q. AND IN ADDITION TO HP LABS AND THE UNIVERSITIES, WERE THERE
04:19PM 23 SOME OTHER EARLY CUSTOMERS OF AGS AT THE TIME?

04:19PM 24 A. YES. BOEING AIRCRAFT WAS ONE OF OUR EARLY CUSTOMERS. WE
04:19PM 25 INSTALLED -- THEY HAD A LARGE BRIDGED NETWORK, AND WE INSTALLED

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:19PM 1 AN AGS IN THE MIDDLE OF THEIR BRIDGED NETWORK. AND ALL THE
04:19PM 2 SUDDEN THEY HAD TWICE THE CAPACITY IN THE NETWORK THAT THEY HAD
04:19PM 3 BEFORE. AND THEY WERE VERY IMPRESSED, AND THEY WANTED MUCH
04:19PM 4 MORE OF THIS TECHNOLOGY. THEY WERE VERY INTERESTED IN IT.

04:19PM 5 Q. I JUST NOTICED HERE, IT SAYS CISCO SYSTEMS, BUT THE C-I-S
04:19PM 6 LOWER CAP. WHERE DOES THE WORD "CISCO" COME FROM?

04:19PM 7 A. SO THE STORY I HEARD FROM SANDY LERNER WAS THAT SHE AND LEN
04:20PM 8 WERE UP IN SAN FRANCISCO REGISTERING A NAME FOR THE COMPANY AND
04:20PM 9 ALL THE NAMES INVOLVING NETWORKING HAD ALREADY BEEN TAKEN, AS
04:20PM 10 FAR AS THEY WERE CONCERNED.

04:20PM 11 AND SO AS THEY WERE STANDING IN SAN FRANCISCO, THEY SAID,
04:20PM 12 OKAY, IT'S GOING TO BE CISCO.

04:20PM 13 Q. WHAT IS THE PICTURE TO THE LEFT THERE?

04:20PM 14 A. THAT'S THE STYLE, THE GOLDEN GATE BRIDGE IS A SYMBOL OF
04:20PM 15 SAN FRANCISCO AND THAT'S A STILL GOLDEN GATE BRIDGE. WE STILL
04:20PM 16 USE THAT IDEA IN OUR LOGO.

04:20PM 17 Q. OKAY. LET'S TAKE A QUICK LOOK AT THE NEXT SLIDE. WHAT ARE
04:20PM 18 WE LOOKING AT HERE ON THIS SLIDE 5?

04:20PM 19 A. THIS IS MY FIRST BADGE.

04:20PM 20 Q. AND IT SAYS NUMBER 4?

04:20PM 21 A. YES.

04:20PM 22 Q. WHAT'S THE SIGNIFICANCE OF THAT?

04:20PM 23 A. SO AS WE STARTED -- AS THE COMPANY STARTED GROWING AND
04:20PM 24 MAKING A LITTLE MONEY, WE STARTED HIRING MORE PEOPLE AND MOVED
04:20PM 25 INTO THE COMMERCIAL HEADQUARTERS OR A COMMERCIAL BUILDING IN

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:21PM 1 MENLO PARK.

04:21PM 2 AND THEN EVENTUALLY WE NEEDED TO HAVE BADGES TO GET ACCESS
04:21PM 3 TO THE BUILDING. AND WHEN IT CAME TIME TO ASSIGN EMPLOYEE --
04:21PM 4 ASSIGN BADGE NUMBERS, WE GAVE BADGE 1 TO CECILIA BECAUSE THAT
04:21PM 5 WAS OUR WAY OF HONORING HER AND RESPECTING HER; SANDY HAD BADGE
04:21PM 6 2; LEN HAD BADGE 3, AND I HAD BADGE 4.

04:21PM 7 Q. ALL RIGHT.

04:21PM 8 NOW, SWITCHING GEARS TO TALK ABOUT THE SPECIFIC
04:21PM 9 RESPONSIBILITIES YOU HAD IN THE EARLY DAYS OF CISCO, WHAT WERE
04:21PM 10 YOU WORKING ON PRIMARILY AT CISCO?

04:21PM 11 A. I WAS WORKING ON THE SOFTWARE.

04:21PM 12 Q. AND DID YOU WORK ON THE CISCO SOFTWARE ALSO INCLUDING WORK
04:21PM 13 ON THE USER INTERFACE FOR THAT SOFTWARE?

04:21PM 14 A. YES, I DID.

04:21PM 15 Q. WHO DECIDED ULTIMATELY WHAT TYPE OF USER INTERFACE CISCO
04:21PM 16 WOULD ELECT TO USE FOR ITS ROUTERS?

04:21PM 17 A. THAT WAS MY DECISION.

04:21PM 18 Q. AND WHEN DID YOU MAKE THAT DECISION?

04:21PM 19 A. IN THE 1986 TIMEFRAME.

04:21PM 20 Q. AND WE ARE GOING TO GET A LOT MORE INTO SPECIFICS OF THE
04:22PM 21 USER INTERFACE, BUT GENERALLY SPEAKING WHAT TYPE OF INTERFACE
04:22PM 22 DID YOU SELECT FOR CISCO?

04:22PM 23 A. WHAT'S CALLED A COMMAND-LINE INTERFACE.

04:22PM 24 Q. WHEN YOU SAY COMMAND-LINE INTERFACE, CAN YOU BRIEFLY
04:22PM 25 DESCRIBE FOR THE JURY WHAT THAT MEANS?

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:22PM 1 A. SO A COMMAND-LINE INTERFACE, OR A CLI, IS AN INTERFACE
04:22PM 2 WHERE IT'S BASICALLY A TEXTUAL INTERFACE WHERE YOU TYPE A
04:22PM 3 SERIES OF WORDS, THEN PRESS RETURN, AND THE COMPUTER AT THE
04:22PM 4 OTHER END INTERPRETS THOSE WORDS TO DO WHATEVER IT IS YOU
04:22PM 5 WANTED IT TO DO.

04:22PM 6 Q. SO LET'S TAKE A LOOK AT SLIDE 6 FROM YOUR SLIDE DECK. AND
04:22PM 7 WHAT ARE WE LOOKING AT ON THIS SLIDE?

04:22PM 8 A. THIS IS THE STARTUP SCREEN WHEN YOU POWER ON A CISCO ROUTER
04:22PM 9 OR SWITCH FOR THE FIRST TIME.

04:22PM 10 Q. OKAY. AND THEN IF WE CLICK TO THE NEXT SLIDE, WHAT ARE WE
04:22PM 11 LOOKING AT HERE?

04:22PM 12 A. THIS IS THE CONTINUATION OF THE STARTUP SCREENS. IT WILL
04:22PM 13 TELL YOU WHAT THE VERSION, IT WILL TELL YOU WHAT TYPE OF
04:23PM 14 SOFTWARE, WHAT VERSION OF THE SOFTWARE, WHERE TO GET SUPPORT,
04:23PM 15 COPYRIGHT INFORMATION. AND THEN IT GIVES YOU A LISTING OF THE
04:23PM 16 HARDWARE CONFIGURATION OF THE SYSTEM.

04:23PM 17 Q. AND WHEN YOU SAY COMMAND-LINE INTERFACE, WHERE IS THE
04:23PM 18 COMMAND LINE IN THIS INTERFACE?

04:23PM 19 A. WAY DOWN AT THE BOTTOM OF THE SCREEN, SOMEBODY HAS
04:23PM 20 PRESUMABLY PRESSED THE RETURN KEY AND THAT WORD SWITCH WITH AN
04:23PM 21 ANGLED BRACKET AFTER IT IS THE -- IS WHERE THE COMMAND LINE
04:23PM 22 STARTS.

04:23PM 23 Q. SO THERE'S A BLINKING CURSER. IS THAT WHERE YOU TYPE IN
04:23PM 24 WORDS?

04:23PM 25 A. IT'S WAITING FOR YOU TO TYPE.

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:23PM 1 Q. AND LET'S WALK THROUGH SOME EXAMPLES OF COMMANDS AND SEE
04:23PM 2 HOW YOUR USER INTERFACE WORKED AT THE TIME. SO CAN YOU TELL US
04:23PM 3 WHAT'S HAPPENING WITH THIS PARTICULAR COMMAND THAT YOU ARE
04:23PM 4 TYPING?

04:23PM 5 A. WELL, THE COMMAND IS -- OF COURSE SHOW INTERFACES, AND
04:23PM 6 AFTER YOU PRESS THE RETURN KEY, IT WILL SHOW YOU STATUS
04:23PM 7 INFORMATION ABOUT THE -- THE INTERFACES IN THE SYSTEM.

04:24PM 8 Q. AND WHEN YOU SAY INTERFACES IN THE SYSTEM, WHAT ARE YOU
04:24PM 9 REFERRING TO?

04:24PM 10 A. I'M REFERRING TO THE, ESSENTIALLY -- THIS IS WHERE THE
04:24PM 11 NETWORK IS ATTACHED. THESE ARE THE ATTACHMENT POINTS FOR THE
04:24PM 12 NETWORK.

04:24PM 13 Q. WE HAVE A PICTURE OF SOMETHING THAT LOOKS LIKE A ROUTER OR
04:24PM 14 SWITCH ON THE BOTTOM?

04:24PM 15 A. YES.

04:24PM 16 Q. WHAT GENERATES THE SCREEN OUTPUT?

04:24PM 17 A. THE ROUTER OR THE SWITCH ACTUALLY GENERATES THE OUTPUT.

04:24PM 18 Q. I TAKE IT YOU COULD GO THROUGH AND ENTER MORE COMMANDS AND
04:24PM 19 SEE MORE OUTPUTS AND THAT'S HOW YOU INTERACT WITH THE SYSTEM?

04:24PM 20 A. THAT IS INDEED THE CASE.

04:24PM 21 Q. AND AT THE TIME -- WHY DID YOU SELECT IN 1986 WHEN YOU WERE
04:24PM 22 WORKING ON THIS FIRST IP ROUTER, WHY DID YOU END UP SELECTING A
04:24PM 23 TEXT-BASED COMMAND-LINE INTERFACE?

04:25PM 24 A. BECAUSE IT WAS BECOMING CLEAR AT THE TIME THAT I WAS GOING
04:25PM 25 TO BE ADDING ADDITIONAL FUNCTIONALITY TO THE SYSTEM, AND I

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:25PM 1 WANTED A USER INTERFACE THAT I COULD EXTEND.

04:25PM 2 Q. WHEN YOU SAY EXTEND, WHAT DO YOU MEAN BY EXTEND?

04:25PM 3 A. I MEAN THAT I COULD ADD NEW FUNCTIONALITY TO IT AND NOT
04:25PM 4 NECESSARILY HAVE TO START OVER AGAIN EVERY TIME I HAD A NEW
04:25PM 5 FUNCTIONALITY.

04:25PM 6 Q. AND HOW DOES A TEXT-BASED COMMAND-LINE INTERFACE LIKE THIS
04:25PM 7 ALLOW YOU TO EXTEND THE FUNCTIONALITY OF AN OPERATING SYSTEM?

04:25PM 8 A. IT -- SO, IT'S WORD-BASED AND WORDS ARE REAL EASY TO USE TO
04:25PM 9 COMMUNICATE WHAT YOU ARE WANTING. IT'S SORT OF TELEGRAPHIC
04:25PM 10 STYLE OF COMMUNICATION, BUT IT IS A MEANS OF COMMUNICATION.

04:25PM 11 Q. OKAY. AND DID YOU CONSIDER AT THE TIME SOME OTHER WAYS OF
04:25PM 12 PROVIDING A USER INTERFACE?

04:25PM 13 A. YES, WE DID. WE CONSIDERED MENUS, AND WE CONSIDERED WHAT'S
04:26PM 14 CALLED A GUI.

04:26PM 15 Q. OKAY. SO LET'S TAKE A LOOK AT SLIDE 11.

04:26PM 16 CAN YOU EXPLAIN BRIEFLY TO THE JURY WHAT ARE THE OTHER
04:26PM 17 TYPES OF USER INTERFACES THAT YOU HAD CONSIDERED INSTEAD OF A
04:26PM 18 COMMAND-LINE INTERFACE?

04:26PM 19 A. SO ONE OF THEM WAS A GUI, OR GRAPHICAL USER INTERFACE.
04:26PM 20 THAT'S A USER INTERFACE THAT BASICALLY DRAWS PICTURES AND USES
04:26PM 21 A MOUSE, OR SOMETHING LIKE THAT, TO POINT AT VARIOUS THINGS
04:26PM 22 THAT YOU CAN GO AND CLICK AND SELECT AND THE LIKE.

04:26PM 23 A MENU-DRIVEN INTERFACE BASICALLY GIVES YOU A MENU OF ITEMS
04:26PM 24 AND YOU SELECT A PARTICULAR MENU ITEM AND THEN GO ON AND SELECT
04:26PM 25 FROM OTHER MENUS BASED ON THAT.

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:26PM 1 THEN THERE'S THE COMMAND-LINE INTERFACE WHICH IS BASICALLY
04:26PM 2 TYPING A SENTENCE OF WORDS.

04:26PM 3 Q. SO WHY DID YOU END UP USING THE TEXT-BASED COMMAND-LINE
04:26PM 4 INTERFACE OVER THESE OTHER POSSIBLE USER INTERFACE DESIGNS?

04:26PM 5 A. SO GUI INTERFACES REQUIRED SOME HARDWARE SUPPORT THAT WE
04:26PM 6 DIDN'T HAVE AND WE WEREN'T WILLING TO ADD. AND GUIS WERE VERY,
04:27PM 7 VERY NEW AT THE TIME. THIS WAS 1986, AND GUIS, LIKE I SAID,
04:27PM 8 WERE VERY NEW TECHNOLOGY THEN.

04:27PM 9 MENU-DRIVEN INTERFACES ARE EXTREMELY SLOW AND CLUNKY AND
04:27PM 10 ARE NOT VERY EXPRESSIVE. IT'S HARD TO TELL WHAT'S GOING ON
04:27PM 11 WHEN YOU HAVE A MENU-DRIVEN INTERFACE.

04:27PM 12 Q. NOW, JUST TO BE CLEAR ON THE RECORD, YOU ARE NOT THE FIRST
04:27PM 13 PERSON IN THE WORLD TO COME UP WITH A PARTICULAR COMMAND-LINE
04:27PM 14 INTERFACE?

04:27PM 15 A. OH, NO, NO. THAT WAS HOW WE DID THINGS IN THOSE DAYS.

04:27PM 16 Q. RIGHT. AND THE QUESTION IS THEN, WHY DID YOU NOT JUST USE
04:27PM 17 SOMEBODY ELSE'S EXISTING COMMAND-LINE INTERFACE FOR THE CISCO
04:27PM 18 PRODUCTS?

04:27PM 19 A. BECAUSE I HAD A NEW PROBLEM. I HAD A NEW TECHNOLOGY.
04:27PM 20 THERE WERE NOT -- THE AGS WAS ONE OF THE FIRST COMMERCIAL IP
04:27PM 21 ROUTERS, IT WAS A COMPLETELY NEW TECHNOLOGY. NOBODY KNEW WHAT
04:27PM 22 AN IP ROUTER WAS. NOBODY WAS SHIPPING ONE. I ACTUALLY HADN'T
04:27PM 23 SEEN ANYONE OTHER THAN WHAT I WAS CREATING.

04:28PM 24 SO THERE WERE JUST, THERE WERE NEW DEMANDS THAT THE OTHER,
04:28PM 25 OLDER COMMAND-LINE INTERFACES WOULD JUST NOT SUPPORT.

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:28PM 1 Q. AND WHAT ARE SOME OF THE THINGS YOU DID DIFFERENTLY WITH
04:28PM 2 YOUR COMMAND-LINE INTERFACE COMPARED TO WHAT EXISTED PRIOR TO
04:28PM 3 YOUR WORK AT CISCO?

04:28PM 4 A. WELL, I MENTIONED THAT I WANTED TO MAKE IT EXTENSIBLE, AND
04:28PM 5 ONE WAY THAT I FELT THAT I KNEW HOW TO DO TO MAKE IT EXTENSIBLE
04:28PM 6 SO I COULD ADD THINGS EASILY WAS TO CREATE HIERARCHIES.

04:28PM 7 Q. OKAY. AND WHEN YOU SAY THE WORD "HIERARCHY," CAN YOU
04:28PM 8 EXPLAIN TO THE JURY WHAT YOU MEAN BY HIERARCHY?

04:28PM 9 A. SO WE ARE GOING TO HAVE TO UNPACK THIS A LITTLE, OR UNPACK
04:28PM 10 THIS A LITTLE BIT. I THINK THE BEST PLACE TO START WOULD BE
04:28PM 11 WITH OTHER DISCUSSIONS OF MODES.

04:28PM 12 Q. SO LET'S DO THAT. WHY DON'T WE LOOK AT SLIDE 12. CAN YOU
04:28PM 13 EXPLAIN TO US WHAT WE ARE LOOKING AT ON SLIDE 12?

04:28PM 14 A. SO WHAT WE ARE LOOKING AT IS A GRAPHICAL REPRESENTATION OF
04:28PM 15 WHAT WE CALL THE USER EXEC MODE. IT'S THE TOP LEVEL MODE, IT'S
04:29PM 16 THE OUTER MOST ONE, IF YOU WILL. AND IT'S IDENTIFIED BY A
04:29PM 17 PROMPT WHICH IS THE NAME OF THE SYSTEM. IN ONE OF OUR EXAMPLES
04:29PM 18 IT WILL BE THE WORD SWITCH, BUT CUSTOMERS CAN NAME THIS DEVICE
04:29PM 19 WHATEVER THEY WANT. AND THEN IT HAS A RIGHT ANGLED BRACKET.

04:29PM 20 Q. LIKE A KARET SIGN?

04:29PM 21 A. A KARET, YES.

04:29PM 22 Q. AND SO WOULD THIS BE THE MODE THAT YOU ENTER AS SOON AS YOU
04:29PM 23 TURN ON THE ROUTER?

04:29PM 24 A. AS SOON AS YOU TURN ON THE ROUTER AND PRESS THE RETURN KEY
04:29PM 25 AND YOU WILL GET A PROMPT, THE NAME OF THE DEVICE WITH AN

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:29PM 1

ANGLED BRACKET.

04:29PM 2

Q. WHAT ARE THE TYPES OF COMMANDS YOU COULD USE IN THE USER EXEC MODE?

04:29PM 3

04:29PM 4

A. SAFE COMMANDS. THIS IS SORT OF THE -- THIS IS THE

04:29PM 5

UNPRIVILEGED LEVEL. THE THINGS LIKE SHOW COMMANDS LIKE SHOW

04:29PM 6

INTERFACES. YOU CAN SORT OF SEE WHAT'S GOING ON IN THE SYSTEM

04:29PM 7

BUT YOU CAN'T ACTUALLY AFFECT IT IN ANY SIGNIFICANT WAY.

04:30PM 8

Q. OKAY. LET'S TAKE A LOOK AT THE NEXT SLIDE. WHAT ARE WE

04:30PM 9

LOOKING AT ON THE NEXT VERSION OF SLIDE 12?

04:30PM 10

A. THIS IS A REPRESENTATION OF THE MODE UNDERNEATH THE EXEC

04:30PM 11

MODE. THIS IS WHAT WE CALL THE PRIVILEGED EXEC. AND ITS

04:30PM 12

PROMPT IS THE NAME OF THE DEVICE AND A HASH MARK OR A POUND

04:30PM 13

SIGN FOLLOWING.

04:30PM 14

AND THESE ARE COMMANDS THAT ARE MUCH MORE POWERFUL, YOU

04:30PM 15

COULD RELOAD THE SYSTEM, YOU COULD CONFIGURE THE SYSTEM.

04:30PM 16

BASICALLY THERE'S SUFFICIENT POWER IN THIS MODE THAT TYPICALLY

04:30PM 17

CUSTOMERS WILL CONFIGURE A PASSWORD THAT HAS TO BE GIVEN BEFORE

04:30PM 18

THEY ENTER INTO THE PRIVILEGED MODE.

04:30PM 19

Q. HOW WOULD YOU GET TO THE USER EXEC MODE TO THE PRIVILEGED

04:30PM 20

MODE?

04:30PM 21

A. I WOULD GIVE THE COMMAND ENABLE, THEN IF THERE'S A

04:30PM 22

PASSWORD, I WOULD HAVE TO TYPE A PASSWORD.

04:30PM 23

Q. AND JUST TO MAKE SURE WE HAVE A CLEAR ILLUSTRATION OF THE

04:30PM 24

PROMPTS, WHICH PROMPT ARE WE LOOKING AT ON SLIDE 13 WITH THE

04:31PM 25

KARET SIGN?

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:31PM 1 A. YOU ARE LOOKING AT THE USER EXEC, THE UNPRIVILEGED LEVEL.

04:31PM 2 Q. THEN IF WE LOOK AT THE NEXT SLIDE, SLIDE 14 WITH THE HASH
04:31PM 3 SIGN, WHICH PROMPT IS THAT?

04:31PM 4 A. THAT'S THE PRIVILEGED MODE.

04:31PM 5 Q. NOW, DID YOU STOP THERE? DID YOU STOP WITH JUST THE TWO
04:31PM 6 MODES WE HAVE BEEN DISCUSSING?

04:31PM 7 A. NO. OTHERS HAVE HAD IDEAS OF TWO-LEVEL MODES, NORMAL USER
04:31PM 8 AND PRIVILEGED MODE. I ADDED A MODE CALLED THE GLOBAL
04:31PM 9 CONFIGURATION MODE.

04:31PM 10 Q. THAT'S SLIDE 15. CAN YOU EXPLAIN TO THE JURY WHAT IS THE
04:31PM 11 GLOBAL CONFIGURATION MODE?

04:31PM 12 A. THAT'S THE MODE WHERE WE GIVE COMMANDS THAT ACTUALLY CHANGE
04:31PM 13 HOW THE DEVICE OPERATES. WE TELL IT ABOUT NETWORK ADDRESSES,
04:31PM 14 WE TELL IT ABOUT NETWORK PROTOCOLS, WE TURN ON SOFTWARE. WE
04:31PM 15 TELL IT WHAT IT NEEDS TO KNOW TO ACTUALLY DO ITS JOB.

04:31PM 16 Q. AND HOW DO YOU GET TO THE GLOBAL CONFIGURATION MODE IN YOUR
04:31PM 17 USER INTERFACE?

04:31PM 18 A. THE COMMAND CONFIGURE TERMINAL.

04:32PM 19 Q. AND WAS THERE ANOTHER MODE THAT YOU CAME UP WITH IN
04:32PM 20 ADDITION TO THE GLOBAL CONFIGURATION?

04:32PM 21 A. YES. THERE'S A MODE UNDERNEATH THIS CALLED THE USER
04:32PM 22 INTERFACE CONFIGURATION MODE.

04:32PM 23 Q. OKAY. BEFORE WE DO THAT, JUST TO BE CLEAR ON THE RECORD,
04:32PM 24 IS THERE A PROMPT THAT'S ASSOCIATED WITH THE CONFIGURATION
04:32PM 25 MODE?

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:32PM 1 A. YES. IT'S THE NAME OF THE DEVICE, THEN IN PARENTHESIS
04:32PM 2 CONFIG, THEN A HASH MARK.

04:32PM 3 Q. SO WHEN THE USER SEES THAT THEY KNOW THEY ARE IN THE
04:32PM 4 CONFIGURATION MODE NOW?

04:32PM 5 A. YES.

04:32PM 6 Q. SO LET'S GO BACK AND LOOK AT SLIDE 17. WHAT IS THIS USER
04:32PM 7 INTERFACE CONFIGURATION MODE YOU CAME UP WITH?

04:32PM 8 A. THIS IS A MODE WHERE IT'S FOR CONFIGURING PARAMETERS ON
04:32PM 9 NETWORK INTERFACES WHICH ARE A CRUCIAL PART OF AN IP ROUTER.
04:32PM 10 IT -- YOU GET TO IT BY TYPING THE WORD "INTERFACE," THEN THE
04:32PM 11 NAME OF THE INTERFACE. AND THEN THIS MODE HAS MEMORY. THIS
04:33PM 12 MODE WILL REMEMBER THE NAME OF THAT INTERFACE.

04:33PM 13 AND THEN THE REST OF THOSE, ANY COMMANDS THAT ARE INTERFACE
04:33PM 14 SPECIFIC COMMANDS WILL THEN APPLY JUST TO THAT PARTICULAR
04:33PM 15 INTERFACE. AND IF YOU TYPE A COMMAND THAT IS NOT AN
04:33PM 16 INTERFACE-SPECIFIC COMMAND, IT POPS YOU BACK UP TO THE GLOBAL
04:33PM 17 CONFIGURATION MODE.

04:33PM 18 Q. WERE YOU AWARE OF OTHER TYPES OF CONFIGURATION MODES LIKE
04:33PM 19 THIS FOR NETWORKING WHERE IT REMEMBERED WHAT YOU WERE DOING?

04:33PM 20 A. NO. I WAS NOT AWARE OF ANY SUCH.

04:33PM 21 Q. SO GOING BACK TO THE HIERARCHY QUESTION I ASKED YOU, YOU
04:33PM 22 SAID LET'S TALK ABOUT THE MODES AND PROMPTS, CAN YOU NOW
04:33PM 23 EXPLAIN TO THE JURY, HOW IS THE CONCEPT OF HIERARCHY REFLECTED
04:33PM 24 IN THIS SERIES OF MODES THAT WE ARE SEEING HERE?

04:33PM 25 A. WELL, I MEAN, YOU BASICALLY START AT THIS TOP LEVEL, THIS

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:33PM 1 USER EXEC AND THEN AS -- YOU CAN DO SIMPLE THINGS LIKE JUST SEE
04:33PM 2 WHAT THE STATUS OF THE SYSTEM IS, IF YOU ACTUALLY WANT TO
04:33PM 3 CHANGE HOW THE SYSTEM OPERATES, THEN YOU GO INTO THE -- YOU
04:34PM 4 HAVE TO GIVE A PASSWORD TO GET INTO THE PRIVILEGED MODE. YOU
04:34PM 5 CAN DO A FEW OTHER THINGS IN PRIVILEGED MODE LIKE RESTART THE
04:34PM 6 SYSTEM AND WHATNOT BUT MOSTLY --

04:34PM 7 Q. HE WAS GETTING EXCITED THERE, MR. LOUGHEED.

04:34PM 8 A. I'M SORRY.

04:34PM 9 YOU CAN DO A FEW OTHER THINGS IN THE PRIVILEGED EXEC, BUT
04:34PM 10 TYPICALLY PEOPLE GO DOWN INTO THE NEXT LEVEL WHICH IS THE
04:34PM 11 CONFIGURATION MODE. BECAUSE IF YOU ARE A SYSTEM ADMINISTRATOR,
04:34PM 12 A NETWORK ADMINISTRATOR, THAT'S WHERE ALL THE ACTION IS.

04:34PM 13 THEN FROM THAT YOU CAN UPON GO INTO THIS INTERFACE
04:34PM 14 CONFIGURATION MODE, TELL IT WHAT INTERFACE YOU ARE INTERESTED
04:34PM 15 IN, AND THEN GO AND CONFIGURE THAT. IT'S BASICALLY, IT'S A
04:34PM 16 HIERARCHY.

04:34PM 17 Q. OKAY. NOW, I UNDERSTAND THERE MAY BE OTHER MODES BUT HOW
04:34PM 18 WOULD YOU CHARACTERIZE THESE FOUR MODES, THE USER EXEC,
04:34PM 19 PRIVILEGED EXEC, GLOBAL CONFIGURATION, AND THE INTERFACE MODES?

04:35PM 20 A. THESE ARE THE MAIN MODES OF THE SYSTEM. THESE ARE THE
04:35PM 21 CRITICAL MODES. THIS IS WHERE YOU SPEND YOUR TIME.

04:35PM 22 Q. OKAY. NOW, I WANT TO GO BACK WITH THIS BACKGROUND TO TALK
04:35PM 23 ABOUT SOME OF THE WORK THAT YOU DID IN TERMS OF COMING UP WITH
04:35PM 24 SPECIFIC COMMANDS IN THE CONTEXT OF THESE DIFFERENT MODES AND
04:35PM 25 PROMPTS.

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:35PM 1 SO I WANT TO GO BACK TO YOUR DAYS AT STANFORD. SO THIS IS
04:35PM 2 SLIDE 18. CAN YOU EXPLAIN TO THE JURY WHAT WE ARE LOOKING AT
04:35PM 3 ON THIS SLIDE AS IT RELATES TO THE STANFORD USER INTERFACE?

04:35PM 4 A. SO IN THE SOFTWARE THAT I DEVELOPED AT STANFORD, I NEEDED A
04:35PM 5 WAY OF ASSOCIATING AN INTERNET ADDRESS WITH AN INTERFACE. AND
04:35PM 6 I DEVELOPED A, YOU KNOW, A SINGLE WORD COMMAND. IN THIS CASE
04:35PM 7 IT WAS THE WORD "INTERFACE."

04:35PM 8 THEN THE NAME OF THE INTERFACE, THE WORD ADDRESS, AND THEN
04:35PM 9 I WOULD SPECIFY AFTER IT, THAT DOTTED STUFF IS AN IP ADDRESS,
04:36PM 10 AND THEN THE 255 IS, ALL THAT STUFF IS, IT'S SOMETHING CALLED A
04:36PM 11 SUBNET MASS, NOT PARTICULARLY IMPORTANT FOR THIS CASE.

04:36PM 12 THAT'S HOW I SET UP AN IP ADDRESS ON AN INTERFACE.

04:36PM 13 Q. LET ME PAUSE YOU THERE TO BE CLEAR BECAUSE YOU SAID IT WAS
04:36PM 14 A SINGLE WORD COMMAND?

04:36PM 15 A. IT WAS A SINGLE WORD COMMAND.

04:36PM 16 Q. SO WHAT WAS THE COMMAND IN THIS FIRST LINE WE ARE SEEING
04:36PM 17 FROM STANFORD?

04:36PM 18 A. INTERFACE.

04:36PM 19 Q. SO THE REST OF THE TEXT, ETHERNET 0 ADDRESS AND SO ON,
04:36PM 20 WOULD THOSE BE THINGS THE USER PROVIDES AS INPUT?

04:36PM 21 A. YES.

04:36PM 22 Q. OKAY. GREAT. SO THEN YOU HAVE NEXT?

04:36PM 23 A. SO THE NEXT THING I WANTED TO DO WAS TELL THE INTERFACE THE
04:36PM 24 LARGEST SIZED PACKET THAT WAS ALLOWED TO SEND OUT, SOMETHING
04:36PM 25 CALLED AN MTU, MAXIMUM TRANSMISSION UNIT. SO I WOULD HAVE TO

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:36PM 1 TYPE ALL THE PREVIOUS BITS OF THAT COMMAND PLUS THE WORD MTU
04:36PM 2 AND A NUMBER.

04:37PM 3 AND THIS WAS -- I COULD TELL THAT THIS WASN'T GOING TO WORK
04:37PM 4 FOR ME VERY MUCH LONGER BECAUSE THERE WERE MORE THINGS I WANTED
04:37PM 5 TO ADD.

04:37PM 6 Q. OKAY. SO JUST TO BE CLEAR, EVERYTHING ON RED AT THE TOP,
04:37PM 7 THAT'S WHAT YOU WERE USING AT STANFORD, THAT'S WHAT RAN ON THE
04:37PM 8 STANFORD CODE?

04:37PM 9 A. YES.

04:37PM 10 Q. AND NOW WE ARE TRANSITIONING TO YOUR DAYS AT CISCO WHERE
04:37PM 11 YOU ARE WORKING ON THE CISCO INTERFACE?

04:37PM 12 A. RIGHT.

04:37PM 13 Q. SO CAN YOU EXPLAIN TO THE JURY WHAT WE ARE LOOKING AT AT
04:37PM 14 THE BOTTOM THERE, INTERFACE ETHERNET COMMAND?

04:37PM 15 A. SO THIS WAS THE BEGINNING OF AN INTERFACE MODE. AND THEN
04:37PM 16 THIS IS, THIS IS BASICALLY THREE COMMANDS. IT'S BETTER
04:37PM 17 ILLUSTRATED HERE.

04:37PM 18 THERE'S THE WORD INTERFACE, WHICH ENTERS THE MODE, YOU SAY
04:37PM 19 INTERFACE, THEN THE NAME OF, THE NAME OF THAT INTERFACE. AND
04:37PM 20 THE SYSTEM REMEMBERS THAT YOU ARE TALKING ABOUT ETHERNET 0.

04:37PM 21 AND THEN THESE SUBSEQUENT COMMANDS, ADDRESS 1.2.3.4 AND
04:38PM 22 MTU, ARE COMMANDS THAT ARE INTERFACE-SPECIFIC COMMANDS THAT
04:38PM 23 KNOW THAT WHATEVER PARAMETERS YOU ARE SPECIFYING TO THEM, THEY
04:38PM 24 BELONG TO, IN THIS CASE, ETHERNET 0.

04:38PM 25 Q. SO DID THE STANFORD INTERFACE HAVE THIS ABILITY TO REMEMBER

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:38PM 1

THINGS?

04:38PM 2

A. NO, IT DID NOT.

04:38PM 3

Q. SO FROM A USER EXPERIENCE PERSPECTIVE, WHAT ARE THE

04:38PM 4

BENEFITS OF HAVING COMMANDS AND MODES THAT ALLOW THE SYSTEM TO

04:38PM 5

REMEMBER WHAT YOU ARE TALKING ABOUT?

04:38PM 6

A. IT SAVED A LOT OF TYPING AND IF YOU DO A LOT OF TYPING YOU

04:38PM 7

GET A LOT OF ERRORS. IT MADE THE USER INTERFACE MORE

04:38PM 8

EXTENSIBLE BECAUSE I COULD ADD NEW COMMANDS WITHOUT INTERFERING

04:38PM 9

WITH THE EXISTING COMMANDS.

04:38PM 10

Q. OKAY. JUST TO BE CLEAR, AT THE BOTTOM THERE IN THE CISCO

04:38PM 11

ADDRESS COMMAND, THERE'S NO WORD IP ANYWHERE IN THAT COMMAND;

04:38PM 12

IS THAT RIGHT?

04:38PM 13

A. WE WERE AN IP ONLY ROUTER AND WE JUST ASSUMED EVERYTHING

04:39PM 14

WAS IP.

04:39PM 15

Q. OKAY. SO ALTHOUGH IT WAS SETTING THE IP ADDRESS, IT DID

04:39PM 16

NOT SAY IP ADDRESS AT THIS TIME?

04:39PM 17

A. CORRECT.

04:39PM 18

Q. SO THEN WE FAST FORWARD A LITTLE BIT IN TIME. WHAT ARE WE

04:39PM 19

LOOKING AT ON THE VERY BOTTOM OF THE CISCO BOX?

04:39PM 20

A. SO WE ARE LOOKING AT THE COMMANDS AS THEY EXIST TODAY. AND

04:39PM 21

WE ARE BASICALLY PREFACING THINGS LIKE, YOU KNOW, ADDRESS

04:39PM 22

BECOMES AN IP ADDRESS, MTU BECOMES AN IP MTU.

04:39PM 23

WHAT WE DISCOVERED WHEN WE WENT INTO THE MARKETPLACE WAS

04:39PM 24

THAT PEOPLE ALREADY HAD WHAT WAS PUT OUT BY OTHER VENDORS WHICH

04:39PM 25

WAS DEC AND XEROX AND THE LIKE. AND THEY WANTED TO RUN TRAFFIC

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:39PM 1 FROM THOSE NETWORKS ACROSS THROUGH OUR ROUTERS.

04:39PM 2 AND SO WE STARTED ADDING THESE OTHER NETWORK PROTOCOLS IN
04:39PM 3 ADDITION TO IP, IN ADDITION TO THE INTERNET PROTOCOL INTO OUR
04:40PM 4 SYSTEM. AND THESE OTHER PROTOCOLS HAD CONCEPTS LIKE ADDRESSES
04:40PM 5 AND MTU AND ROUTING TABLES AND THE LIKE.

04:40PM 6 AND SO WE HAD TO HAVE SOME WAY OF DISTINGUISHING BETWEEN
04:40PM 7 WHAT SORT OF ADDRESS ARE YOU TALKING ABOUT. AND THE DECISION
04:40PM 8 THAT WE WENT WITH WAS TO PREFIX A LOT OF THESE COMMANDS WITH
04:40PM 9 THE PROTOCOL THAT THEY BELONGED TO.

04:40PM 10 SO THERE'S IP ADDRESS HERE, AND YOU HAVE A DEC NET ADDRESS.
04:40PM 11 XNS ADDRESS. WE BASICALLY, BY THE MIDDLE OF THE '90S, HAD
04:40PM 12 ENDED UP WITH 14 DIFFERENT NETWORK PROTOCOLS IN THE BOX. WE
04:40PM 13 HAD GONE FROM BEING JUST AN IP ROUTER TO BECOMING A MULTI
04:40PM 14 PROTOCOL ROUTER.

04:40PM 15 Q. AND, AGAIN, AT THAT TIME, WHEN YOU WERE WORKING ON THE
04:40PM 16 FIRST IP ROUTER, WAS THERE ANY KIND OF CONSTRAINT ON YOU OR
04:40PM 17 FUNCTIONAL DEMAND THAT TOLD YOU, HEY, YOU'VE GOT TO DO IT THIS
04:40PM 18 WAY?

04:40PM 19 A. THERE WEREN'T ANY OTHER DEVICES LIKE THIS AT THE TIME.
04:41PM 20 THERE WERE NOT ANY EXPECTATIONS THAT THE CUSTOMERS HAD, THAT
04:41PM 21 THERE WAS A WAY OF DOING THIS OR THERE WAS A WAY OF TALKING
04:41PM 22 ABOUT IT OR EVEN THE CHOICE OF WORDS.

04:41PM 23 WE COULD CERTAINLY, YOU KNOW, WE COULD CERTAINLY HAVE
04:41PM 24 CHOSEN DIFFERENT WORDS TO DO THIS. WE COULD HAVE CHOSEN
04:41PM 25 DIFFERENT ORDERS OF THESE WORDS TO DO THIS.

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:41PM 1 Q. NOW, LET'S TALK SPECIFICALLY. BY THE WAY, BEFORE WE GO,
04:41PM 2 SLIDE 22, JUST TO REMIND THE JURY, WHAT IS THE PROMPT FOR THE
04:41PM 3 CONFIGURATION INTERFACE?

04:41PM 4 A. THE NAME AS IT SHOWS ON THE SLIDE, THE NAME OF THE DEVICE
04:41PM 5 WHICH IS IN THIS CASE SWITCH, AND THEN IN PARENTHESES CONFIG-IF
04:41PM 6 HASH MARK. SO YOU WOULD KNOW WHAT MODE YOU WERE IN.

04:41PM 7 Q. SO YOU UNDERSTAND THAT YOU CREATED A LOT OF COMMANDS BUT
04:41PM 8 SOME OF THE COMMANDS THAT YOU CREATED AT CISCO ARE AT ISSUE IN
04:41PM 9 THIS CASE, YOU UNDERSTAND THAT?

04:41PM 10 A. YES, I UNDERSTAND THAT.

04:41PM 11 Q. SO I HAVE ON SLIDE 23 FROM YOUR PRESENTATION A NUMBER OF
04:42PM 12 THESE COMMANDS. CAN YOU JUST CONFIRM FOR THE JURY THAT THESE
04:42PM 13 ARE, IN FACT, COMMANDS THAT YOU PERSONALLY AUTHORED?

04:42PM 14 A. YES, THESE ARE ONES THAT I PERSONALLY AUTHORED.

04:42PM 15 Q. AND BEFORE YOU CAME UP WITH ANY OF THESE COMMANDS, WERE YOU
04:42PM 16 AWARE OF ANY ORGANIZATION OR COMPANY THAT HAD USED ANY OF THESE
04:42PM 17 MULTIWORD COMMANDS BEFORE YOU?

04:42PM 18 A. THERE WAS -- I DIDN'T KNOW OF ANYBODY ELSE THAT USED THESE
04:42PM 19 AT ALL.

04:42PM 20 Q. AND I WANT TO TALK GENERALLY, AND WE ARE GOING TO GO
04:42PM 21 THROUGH THIS A LITTLE BIT MORE, THE PROCESS, THE CREATIVITY
04:42PM 22 PROCESS OR HOW YOU CAME UP WITH THESE COMMANDS.

04:42PM 23 CAN YOU JUST WALK US THROUGH YOUR MENTAL THOUGHT PROCESS IN
04:42PM 24 TERMS OF HOW YOU CAME UP WITH THESE COMMANDS AND HOW THAT
04:42PM 25 TRANSLATED ULTIMATELY TO OTHER COMMANDS BY OTHER ENGINEERS AT

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:42PM 1 CISCO.

04:42PM 2 A. OKAY. I CAME UP WITH SOME OF THE FEW INITIAL KEY WORDS
04:42PM 3 SUCH AS SHOW, FOR STATUS COMMANDS.

04:42PM 4 AND AFTER I CAME UP WITH SORT OF THE INITIAL COMMAND SET,
04:43PM 5 VERY SMALL SET OF COMMANDS, WHAT I WOULD DO WHEN I HAD NEW
04:43PM 6 FUNCTIONALITY THAT I WAS CREATING WAS I WOULD LOOK TO SEE WHAT
04:43PM 7 I HAD DONE BEFORE, AND I NEEDED TO FIT IN WITH THAT. I NEEDED
04:43PM 8 TO BE SORT OF SOMETHING REASONABLE AND LOGICAL THERE. I DIDN'T
04:43PM 9 WANT TO HAVE -- IF THERE'S A RHYME AND A REASON TO THINGS,
04:43PM 10 PEOPLE WILL BE ABLE TO REMEMBER THEM MUCH EASIER.

04:43PM 11 SO I TOOK A LOOK AT WHAT I HAD DONE BEFORE. I BECAME VERY
04:43PM 12 AWARE THAT I WAS GOING TO BE -- THIS WAS GOING TO CONTINUE TO
04:43PM 13 EVOLVE. SO I WAS SORT OF TAKING MY BEST GUESS OF THE FUTURE AS
04:43PM 14 TO WHAT MIGHT FURTHER DEVELOP, AND I DIDN'T WANT TO CLOSE OFF
04:43PM 15 ANY AVENUES BY POOR CHOICE OF WORDS, OR THE LIKE.

04:43PM 16 I ALSO NEEDED TO COMMUNICATE TO NETWORK MANAGERS AND
04:43PM 17 SUPPORT PEOPLE SOME IDEAS. I MEAN, WHAT SORT OF MAKES SENSE TO
04:44PM 18 THAT AUDIENCE.

04:44PM 19 AND THEN THERE WAS MY OWN IDIOSYNCRATIC THINGS. CERTAIN
04:44PM 20 WORDS THAT APPEALED TO ME, CERTAIN WORDS THAT WERE SHORTER OR
04:44PM 21 LONGER. I LIKE WORDS THAT ARE SPELLED OUT. I DIDN'T PUT -- I
04:44PM 22 DON'T LIKE DOTS IN THE MIDDLE OF THINGS. I LIKE HYPHENS AND
04:44PM 23 NOT UNDERSCORES, JUST LITTLE IDIOSYNCRATIC THINGS LIKE THAT.

04:44PM 24 AND THAT'S THE THOUGHT PROCESS THEY WENT THROUGH WHEN I WAS
04:44PM 25 CREATING COMMANDS IN THE EARLY DAYS.

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:44PM 1 AND AS WE HIRED ENGINEERS, I BASICALLY TAUGHT THEM THIS,
04:44PM 2 THIS IS HOW YOU THINK ABOUT IT, THIS IS HOW YOU DO IT. AND
04:44PM 3 THEY WOULD DEVELOP THEIR OWN COMMANDS. WE MIGHT TALK ABOUT
04:44PM 4 THOSE COMMANDS. BUT EVENTUALLY -- ESSENTIALLY THEY HAD A GREAT
04:44PM 5 DEAL OF FREEDOM AS TO WHAT THEY WERE GOING TO CHOOSE. AND
04:44PM 6 THAT'S BEEN BASICALLY THE PROCESS EVER SINCE.

04:44PM 7 Q. OKAY. AND I'M SURE -- ARE THERE COMMANDS HERE THAT YOU
04:45PM 8 LOOK BACK AND YOU COULD SAY, I PROBABLY WOULD HAVE COME UP WITH
04:45PM 9 A DIFFERENT COMMAND KNOWING THAT I KNOW NOW?

04:45PM 10 A. UM, YES. NO, THERE'S -- YOU CAN ALWAYS -- ONCE YOU
04:45PM 11 UNDERSTAND THE PROBLEM MORE CLEARLY FROM A DIFFERENT
04:45PM 12 PERSPECTIVE, YOU CAN USUALLY COME UP WITH DIFFERENT WAYS OF
04:45PM 13 DOING THINGS.

04:45PM 14 Q. OF THESE COMMANDS HERE, I DON'T HAVE THE TIME TO GO THROUGH
04:45PM 15 ALL OF THEM, BUT COULD YOU JUST HIGHLIGHT FOR THE JURY SOME OF
04:45PM 16 THE COMMANDS THAT YOU PERSONALLY AUTHORED THAT ARE WIDELY
04:45PM 17 UTILIZED EVEN TODAY BY CISCO ENGINEERS?

04:45PM 18 A. SO THERE IS -- WELL, IP ADDRESS THAT WE'VE TALKED ABOUT,
04:45PM 19 WHICH ASSIGNS AN IP ADDRESS TO AN INTERFACE.

04:45PM 20 IP ACCESS LIST SETS UP A BUNCH OF RULES AS TO WHAT PACKETS
04:45PM 21 CAN GO OUT TO PARTICULAR INTERFACES. YOU CAN BUILD A REAL
04:45PM 22 SIMPLE THING CALLED A FIREWALL TO MAKE SURE THE WRONG PACKETS
04:45PM 23 DON'T GET IN OUR OUT OF A NETWORK.

04:45PM 24 AND SHOW INTERFACE IS ONE THAT'S USED EVERY DAY BY NETWORK
04:46PM 25 MANAGERS TO SEE WHAT'S GOING ON IN THE NETWORK.

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:46PM 1 Q. AND SO WE WILL TALK ABOUT HIERARCHY A LITTLE BIT FURTHER.

04:46PM 2 BUT JUST IN THINKING ABOUT THE WORD CHOICES, MR. LOUGHEED,

04:46PM 3 LET'S TAKE IP, FOR EXAMPLE. WHAT ARE SOME OF THE WORDS YOU

04:46PM 4 COULD HAVE USED AND YOU HAD CONSIDERED INSTEAD OF JUST USING

04:46PM 5 THE LETTERS IP?

04:46PM 6 A. WELL, I COULD HAVE USED INTERNET. THAT WOULD HAVE BEEN A

04:46PM 7 PERFECTLY REASONABLE CHOICE. I COULD HAVE USED IP V4, WHICH IS

04:46PM 8 -- THIS IP IS ACTUALLY THE FOURTH VERSION OF IP. I COULD HAVE

04:46PM 9 USED THE WORD TCP-IP, JUST ALL RUN TOGETHER. I COULD HAVE USED

04:46PM 10 INTERNET-PROTOCOL. THERE'S A NUMBER OF POSSIBILITIES.

04:46PM 11 Q. LET'S TAKE ADDRESS, FOR EXAMPLE. THAT'S ANOTHER WORD

04:46PM 12 THAT'S COMMONLY USED TODAY, BUT AT THE TIME YOU WERE COMING UP

04:47PM 13 WITH THIS COMMAND, WHAT WERE SOME OTHER WORDS YOU COULD HAVE

04:47PM 14 CHOSEN?

04:47PM 15 A. I COULD HAVE CHOSEN LABEL.

04:47PM 16 MR. SILBERT: OBJECT TO COULD HAVE CHOSEN.

04:47PM 17 MR. PAK: LET ME REPHRASE IT.

04:47PM 18 Q. WHAT WERE SOME OF THE WORDS YOU DID CONSIDER AT THE TIME?

04:47PM 19 A. IDENTIFIER.

04:47PM 20 Q. ANY OTHERS THAT YOU CAN THINK OF?

04:47PM 21 A. I THINK WE CONSIDERED THE LABEL.

04:47PM 22 Q. AND AT THE TIME, JUST TO REMIND US AGAIN, WAS THERE ANY

04:47PM 23 FUNCTIONALITY RESTRICTION ON WHAT WORDS YOU HAVE TO CHOOSE FROM

04:47PM 24 A COMMAND PERSPECTIVE AT THE TIME?

04:47PM 25 A. NO, AT THIS TIME THERE WERE NOT EXISTING CUSTOMERS. THERE

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:47PM 1 WAS NO EXPECTATION OF WHAT SORT OF USER INTERFACE OR WHAT
04:47PM 2 CHOICE OF WORDS PEOPLE WOULD USE.

04:48PM 3 Q. AND LET'S TAKE ANOTHER ONE LAST EXAMPLE. ACCESS LIST,
04:48PM 4 THAT'S ACCESS-LIST. WHAT WERE SOME OF THE OTHER OPTIONS THAT
04:48PM 5 YOU CONSIDERED INSTEAD OF ACCESS LIST AT THE TIME?

04:48PM 6 A. IP RULES WAS, BECAUSE THAT'S WHAT BASICALLY AN ACCESS LIST
04:48PM 7 IS, IS A LIST OF RULES OF WHERE PACKETS GO.

04:48PM 8 Q. CAN YOU THINK OF ANY OTHERS THAT YOU DID CONSIDER AT THE
04:48PM 9 TIME FOR ACCESS LIST?

04:48PM 10 A. PERMIT LIST.

04:48PM 11 Q. AND, AGAIN, WERE THERE ANY RESTRICTIONS AT THE TIME ON THE
04:48PM 12 SPECIFIC WORDS YOU CHOSE OR THE ACRONYMS YOU CHOSE?

04:48PM 13 A. NO.

04:48PM 14 Q. NOW, I WANT TO GO BACK TO A COMMAND HIERARCHY, SO YOU
04:48PM 15 TALKED ABOUT HIERARCHY IN THE CONTEXT OF MODES, DO YOU RECALL
04:48PM 16 THAT CONVERSATION?

04:48PM 17 A. YES.

04:48PM 18 Q. NOW, I WOULD LIKE TO HAVE YOU WALK THE JURY THROUGH THE
04:48PM 19 CONCEPT OF HIERARCHY AS IT PERTAINS TO MULTIWORD COMMANDS.

04:48PM 20 SO AT A VERY HIGH LEVEL, CAN YOU EXPLAIN WHAT A COMMAND
04:48PM 21 HIERARCHY IS?

04:49PM 22 A. IT'S A SET OF COMMANDS THAT SHARE SOME INITIAL WORDS IN
04:49PM 23 THE -- SET OF MULTIWORD COMMANDS THAT SHARE INITIAL WORDS.

04:49PM 24 Q. OKAY. SO IT'S -- LOOK AT AN EXAMPLE OF THAT, SLIDE 24 FROM
04:49PM 25 YOUR PRESENTATION. CAN YOU SHOW US WHAT YOU ARE DEPICTING WITH

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:49PM 1 THIS PICTURE ON SLIDE 24?

04:49PM 2 A. THIS IS THE "SHOW HIERARCHY," AND YOU CAN TYPE THE WORD
04:49PM 3 SHOW, AND WE'VE ALREADY SEEN INTERFACES IS ONE OF THE THINGS
04:49PM 4 THAT YOU CAN FOLLOW THE WORD SHOW WITH. THERE'S ALSO SHOW IP,
04:49PM 5 THERE'S SHOW SPANNING-TREE, THERE'S SHOW ARP, SHOW HOSTS.
04:49PM 6 THAT'S SORT OF THE SECOND LEVEL OF THE HIERARCHY OF THE "SHOW
04:49PM 7 HIERARCHY."

04:49PM 8 THERE'S A THIRD LEVEL UNDER IP WHERE I CAN SAY SHOW IP,
04:49PM 9 BGP, ACCESS LISTS, INTERFACE, ARP, ROUTE.

04:50PM 10 Q. AND WHY DID YOU DECIDE TO IMPOSE OR USE A HIERARCHY AS YOU
04:50PM 11 WERE COMING UP WITH THESE MULTIWORD COMMANDS AT CISCO?

04:50PM 12 A. BASICALLY EASE OF USE BY HUMAN BEINGS. I COULD ADD THINGS
04:50PM 13 IN HERE, I COULD ADD NEW FUNCTIONALITY IN BASICALLY BY HOOKING
04:50PM 14 IT IN IN THE RIGHT LEVEL IN THIS HIERARCHY.

04:50PM 15 ALSO IF A NETWORK ADMINISTRATOR KNEW SOME INITIAL WORDS OR
04:50PM 16 HAD SORT OF AN IDEA OF WHAT MIGHT BE THE LEADING WORDS, YOU
04:50PM 17 COULD ACTUALLY START EXPLORING THE HIERARCHY.

04:50PM 18 Q. OKAY. AND JUST GOING BACK TO YOUR DAYS AT STANFORD, DOES
04:50PM 19 STANFORD USE THE INTERFACE THAT YOU WORKED ON BEFORE YOU LEFT
04:50PM 20 FOR CISCO? DID IT HAVE THIS KIND OF HIERARCHICAL STRUCTURE?

04:50PM 21 A. THE SOFTWARE THAT I STARTED WITH HAD BASICALLY ALL THE
04:51PM 22 COMMANDS AT THE SAME LEVEL. I DIDN'T THINK THAT WAS VERY
04:51PM 23 EXTENSIBLE, SO I STARTED -- ACTUALLY SHOW, I THINK, WAS ONE OF
04:51PM 24 THE VERY FIRST HIERARCHIES THAT I CREATED.

04:51PM 25 Q. SO JUST TO BE CLEAR ON THE RECORD, AT STANFORD YOU DID NOT

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:51PM 1 HAVE THIS MULTIWORD COMMAND HIERARCHY STRUCTURE?

04:51PM 2 A. THE ORIGINAL STANFORD SOFTWARE DID NOT HAVE THE WORD SHOW.

04:51PM 3 Q. LET'S LOOK AT ONE MORE HIERARCHY.

04:51PM 4 CAN YOU EXPLAIN TO THE JURY WHAT WE ARE LOOKING AT ON SLIDE
04:51PM 5 25 OF YOUR PRESENTATION?

04:51PM 6 A. WE ARE LOOKING AT AN IP HIERARCHY WITHIN THE CONFIGURATION
04:51PM 7 MODE, THE GLOBAL CONFIGURATION MODE AS WELL AS THE INTERFACE
04:51PM 8 CONFIGURATION MODE.

04:51PM 9 THESE ARE ALL THE -- THE FIRST LEVEL IS A LIST OF VERY
04:51PM 10 COMMON COMMANDS THAT YOU CAN GIVE WHILE YOU ARE CONFIGURING THE
04:51PM 11 SYSTEM. THE WORD "DOMAIN" ACTUALLY CONTINUES ONTO A THIRD
04:51PM 12 LEVEL, WHERE YOU CAN SAY IP DOMAIN LOOKUP.

04:52PM 13 Q. AND THEN I NOTICE SOMETHING HERE, SO THIS ONE HAS IP, AND
04:52PM 14 IT'S GOT ALL OF THESE ENTRIES UNDER THE IP HIERARCHY. BUT THEN
04:52PM 15 WHEN I GO BACK TO YOUR EARLIER SLIDE FOR THE "SHOW HIERARCHY"
04:52PM 16 YOU ALSO HAVE SHOW IP.

04:52PM 17 A. YES.

04:52PM 18 Q. WHY DID YOU END UP PUTTING IP IN TWO SEPARATE HIERARCHIES?
04:52PM 19 HOW DID THAT DECISION COME ABOUT?

04:52PM 20 A. BECAUSE WE WERE BASICALLY -- WE HAD BECOME A MULTI PROTOCOL
04:52PM 21 ROUTER, AND WE FIRST RAN INTO THE ISSUE OF HOW TO DISTINGUISH
04:52PM 22 BETWEEN PROTOCOLS IN THE CONFIGURATION MODES AND WE SOLVED THAT
04:52PM 23 BY PREFACING THE THINGS WITH IP.

04:52PM 24 AND THEN IN THE INTEREST OF JUST SYMMETRY, SO THAT THE
04:52PM 25 CUSTOMERS WOULD SEE SORT OF THE SAME PATTERNS REFLECTED AGAIN,

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:52PM 1 WE CREATED AN IP HIERARCHY IN THE SHOW COMMANDS.

04:52PM 2 Q. NOW, IS THERE ANY REASON WHY YOU COULDN'T HAVE DECIDED TO
04:53PM 3 PUT IP AS ONE OF THE ENTRIES THERE?

04:53PM 4 A. THAT WOULD HAVE BEEN PERFECTLY REASONABLE. THAT WOULD BE
04:53PM 5 ONE WAY OF DOING THINGS.

04:53PM 6 Q. AND YOU JUST MADE A DIFFERENT HIERARCHY CHOICE?

04:53PM 7 A. I MADE THIS PARTICULAR HIERARCHICAL CHOICE. THERE WAS
04:53PM 8 NOTHING SACRED ABOUT THIS PARTICULAR ORDERING OF COMMANDS OR
04:53PM 9 PARTICULAR ORGANIZING PRINCIPAL. I COULD HAVE ORGANIZED THINGS
04:53PM 10 ENTIRELY BY TECHNOLOGY AREA OR --

04:53PM 11 Q. WHAT DO YOU MEAN BY TECHNOLOGY AREA?

04:53PM 12 A. SO I COULD HAVE HAD A TOP LEVEL SHOW COMMAND -- EXCUSE ME.
04:53PM 13 I COULD HAVE HAD A TOP LEVEL COMMAND CALLED IP, FOR INSTANCE.

04:53PM 14 AND I COULD HAVE BASICALLY SAID THERE'S IP AND THEN THERE
04:53PM 15 WOULD BE A COMMAND THAT MIGHT INVOKE SORT OF A CONFIGURATION
04:53PM 16 ACTION OR I COULD HAVE IP AND A BUNCH OF -- A FEW MORE WORDS,
04:54PM 17 THEN I COULD HAVE AT THE END DISPLAY OR SOMETHING LIKE THAT. I
04:54PM 18 COULD HAVE DONE STUFF LIKE THAT AS WELL. THERE'S NO INHERENT
04:54PM 19 REASON WHY THAT COULDN'T HAVE BEEN DONE.

04:54PM 20 MR. SILBERT: YOUR HONOR, OBJECTION TO TESTIMONY
04:54PM 21 ABOUT WHAT COULD HAVE BEEN DONE.

04:54PM 22 THE COURT: OVERRULED.

04:54PM 23 BY MR. PAK:

04:54PM 24 Q. AND, MR. LOUGHEED, JUST TO MAKE IT ABSOLUTELY CLEAR ON THE
04:54PM 25 RECORD, DID YOU COPY ANY OF YOUR MULTIWORD COMMANDS OR THE

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:54PM 1 HIERARCHIES FROM ANY OTHER SOURCE?

04:54PM 2 A. NO.

04:54PM 3 Q. I'M GOING TO MOVE ON TO TALK ABOUT COMMAND OUTPUTS. THAT'S
04:54PM 4 SOMETHING ELSE WE HEARD IN THIS CASE.

04:54PM 5 SO WE LOOKED AT HOW COMMANDS GET ENTERED, FOR EXAMPLE, SHOW
04:54PM 6 INTERFACES. WE BRIEFLY HAD YOU INTRODUCE THE IDEA OF HAVING
04:54PM 7 SOME SCREEN OUTPUTS THAT WERE SHOWN UP ON THE SCREEN. DO YOU
04:54PM 8 SEE THAT, SIR?

04:54PM 9 I WANT TO SPEND A FEW MINUTES HERE WITH THE JURY. THERE'S
04:55PM 10 JUST A LOT OF WORDS, SO CAN YOU HELP US JUST INTERPRET THAT.

04:55PM 11 SO CAN YOU INTERPRET FOR THE JURY WHAT YOU ARE SEEING HERE
04:55PM 12 WITH THESE WORDS AND HOW THAT'S ORGANIZED?

04:55PM 13 A. SO THIS COMMAND IS USED BY NETWORK ADMINISTRATORS TO SEE
04:55PM 14 WHAT THE STATUS IS OF A NETWORK INTERFACE. THIS IS A CRUCIAL
04:55PM 15 COMMAND FOR TROUBLE SHOOTING PROBLEMS.

04:55PM 16 AND IT'S ORGANIZED IN A FIXED WAY WITH THE MOST IMPORTANT
04:55PM 17 INFORMATION UP AT THE TOP. IT TELLS YOU WHAT THE NAME OF THE
04:55PM 18 INTERFACE IS. IN THIS CASE ETHERNET 0.

04:55PM 19 IT TELLS YOU WHETHER THE SYSTEM THINKS IT'S UP OR DOWN. IT
04:55PM 20 TELLS YOU ABOUT SOMETHING CALLED HARDWARE ADDRESSES. IT TELLS
04:55PM 21 YOU WHAT THE INTERNET ADDRESS IS. IT TELLS YOU SOME, YOU KNOW,
04:55PM 22 PARAMETERS THAT ARE GOOD FOR, LIKE, MTU AND BANDWIDTH AND DELAY
04:55PM 23 AND THE LIKE THAT ARE USEFUL IN CERTAIN CONTEXTS, WHAT SORT OF
04:56PM 24 PACKETS IT SENDS.

04:56PM 25 THE TIME SINCE THE LAST INPUT OR THE LAST OUTPUT. IF YOU

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:56PM 1 THINK THAT INTERFACE SHOULD BE ACTIVE AND IT'S BEEN SENDING
04:56PM 2 TRAFFIC AND IT HASN'T SENT ANYTHING FOR AN HOUR, YOU GOT A
04:56PM 3 PROBLEM.

04:56PM 4 IT GIVES YOU INFORMATION ABOUT OUTPUT AND INPUT CUES. IF
04:56PM 5 ONE OF THOSE CUES IS ABSOLUTELY FULL, THERE'S PROBABLY
04:56PM 6 SOMETHING BADLY WRONG WITH THE SYSTEM AND NOTHING IS HAPPENING.
04:56PM 7 IT TELLS YOU ABOUT THE RATE OF INPUT AND OUTPUT AND BYTES AND
04:56PM 8 PACKET PER SECOND WHICH GIVES YOU A CLUE AS TO WHAT SORT OF
04:56PM 9 TRAFFIC PATTERNS YOU ARE SEEING THERE.

04:56PM 10 THEN THE SUMS OF THINGS LIKE THE NUMBER OF PACKETS AND
04:56PM 11 BYTES INPUT, OUTPUT, HAVE YOU RECEIVED ERROR PACKET, HAVE YOU
04:56PM 12 DROPPED THINGS BECAUSE YOU HAVE RUN OUT OF BUFFERS FOR THESE
04:56PM 13 PACKETS TO RUN INTO.

04:56PM 14 THAT'S WHAT THIS DOES. AND BECAUSE IT'S A TEXTUAL OUTPUT,
04:57PM 15 BECAUSE IT'S A BUNCH OF WORDS, PEOPLE CAN SCAN THAT REAL
04:57PM 16 QUICKLY LIKE YOU SCAN THE FRONT PAGE OF A NEWSPAPER AND YOU CAN
04:57PM 17 SEE WHAT THE MOST IMPORTANT THING IS, IT CATCHES YOUR EYE.

04:57PM 18 Q. JUST TO BE CLEAR, WAS THERE ANY KIND OF CONSTRAINT,
04:57PM 19 RESTRICTIONS OR SOMETHING THAT SAID YOU HAD TO USE THIS
04:57PM 20 PARTICULAR SEQUENCE OF WORDS AS ANY OF YOUR SCREEN OUTPUTS?

04:57PM 21 A. NO, THERE WAS NO CONSTRAINT, THIS WAS JUST -- I WROTE THE
04:57PM 22 ORIGINAL FORM OF THIS COMMAND, AND I WAS USING IT FOR MYSELF
04:57PM 23 JUST TO FIGURE OUT WHAT WAS GOING ON IN THE NETWORK. THIS IS
04:57PM 24 THE STUFF THAT I THOUGHT WAS THE MOST IMPORTANT.

04:57PM 25 THERE HAVE BEEN OTHER ENGINEERS THAT HAVE COME ALONG AND

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:57PM 1 ADDED SOME FUNCTIONALITY OVER THE YEARS, BUT THERE'S NO
04:57PM 2 CONSTRAINT.

04:57PM 3 Q. AND GENERALLY SPEAKING, WHO AUTHORS SCREEN OUTPUTS AT
04:57PM 4 CISCO?

04:57PM 5 A. THE ENGINEERS THAT WRITE THE FUNCTIONALITY THAT RELATES TO
04:57PM 6 THAT SCREEN OUTPUT.

04:58PM 7 MR. PAK: AND, YOUR HONOR, I PROBABLY HAVE ABOUT TEN
04:58PM 8 MORE MINUTES. SO WOULD YOU LIKE TO TAKE --

04:58PM 9 THE COURT: WE ARE NOT GOING TO GO UNTIL TEN PAST
04:58PM 10 5:00. WE ALWAYS STOP PROMPTLY AT 5:00. SO THANK YOU FOR
04:58PM 11 ASKING.

04:58PM 12 MR. PAK: SO LET ME GUEST A FEW MORE QUESTIONS TO GET
04:58PM 13 THE --

04:58PM 14 THE COURT: OKAY. SURE.

04:58PM 15 BY MR. PAK:

04:58PM 16 Q. WITH RESPECT TO THE HELP DESCRIPTIONS, DO YOU RECALL THAT
04:58PM 17 AS BEING ANOTHER ELEMENT OF YOUR USER INTERFACE, JUST TO REMIND
04:58PM 18 THE JURY, WE HAVE OF -- WHAT DO WE SEE HERE ON SLIDE 28?

04:58PM 19 A. YOU ARE SEEING SOMEBODY IS TYPING THE COMMAND SHOW AND THEN
04:58PM 20 THE QUESTION MARK.

04:58PM 21 Q. OKAY. AND THEN LET'S GO TO THE NEXT SLIDE. WHAT ARE WE
04:58PM 22 LOOKING AT HERE?

04:58PM 23 A. THIS IS HOW THE SYSTEM RESPONDS. IT GIVES YOU A LIST ON
04:58PM 24 THE LEFT OF WHAT POSSIBILITIES YOU MIGHT TYPE NEXT. THEN OVER
04:58PM 25 ON THE RIGHT-HAND SIDE IS SOMETHING THAT'S CALL A HELP MESSAGE

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

04:58PM 1 OR A HELP DESCRIPTION THAT GIVES SOMETHING THE ENGINEER HAS

04:59PM 2 WRITTEN TO GIVE YOU SORT OF A CLUE -- THE DEVELOPING ENGINEER

04:59PM 3 TO GIVE YOU A CLUE AS TO WHAT THIS KEY WORD MIGHT MEAN OR WHAT

04:59PM 4 IT MIGHT DO.

04:59PM 5 Q. AND GENERALLY SPEAKING, WHO AUTHORS THESE HELP DESCRIPTIONS

04:59PM 6 FOR EACH OF THESE COMMANDS THAT WE ARE SEEING HERE?

04:59PM 7 A. THE ENGINEER WHO DEVELOPS THE FUNCTIONALITY THAT DEVELOPS

04:59PM 8 THE COMMANDS.

04:59PM 9 Q. WAS THAT ALWAYS THE CASE OR WAS THERE A TIME THAT A

04:59PM 10 DIFFERENT PERSON MAY HAVE AUTHORED SOME OF THESE HELP

04:59PM 11 DESCRIPTIONS?

04:59PM 12 A. IN THE VERY BEGINNING YOU COULD TYPE QUESTION MARK AT THE

04:59PM 13 TOP LEVEL AND YOU WOULD GET SORT OF A LIST OF COMMANDS AND SOME

04:59PM 14 HELP MESSAGE WITH THAT.

04:59PM 15 AND IN THE EARLY '90S WE REVISED THE PARSER AND MADE IT

04:59PM 16 MORE POWERFUL, AND ADDED THE ABILITY TO TYPE QUESTION MARK AT

04:59PM 17 ANY POINT IN THIS -- AT ANY POINT WHEN PEOPLE WERE TYPING.

04:59PM 18 AND THE CONTRACTOR THAT WAS IN CHARGE OF DOING THAT

05:00PM 19 ACTUALLY PUT IN THESE HELP DESCRIPTIONS, THESE HELP STRINGS,

05:00PM 20 PUT THEM ALL IN AT THAT POINT.

05:00PM 21 AND THEN AS TIME HAS GONE ON AND ENGINEERS HAVE ADDED NEW

05:00PM 22 COMMANDS, THE ENGINEERS THAT ARE DOING THE NEW FUNCTIONALITY

05:00PM 23 THAT ARE CREATING THESE COMMANDS WILL ADD, THEY ARE RESPONSIBLE

05:00PM 24 FOR ADDING THESE HELP MESSAGES

05:00PM 25 Q. AND WHO IS THE NAME OF THE PERSON THAT CREATED THESE

DIRECT EXAMINATION OF MR. LOUGHEED BY MR. PAK

05:00PM 1 INITIAL HELP DESCRIPTIONS?

05:00PM 2 A. TERRY SLATTERY.

05:00PM 3 Q. AND, AGAIN, WERE THERE ANY CONSTRAINTS OR RESTRICTIONS OR
05:00PM 4 FUNCTIONAL DEMANDS THAT WOULD TELL THE ENGINEERS YOU HAVE TO
05:00PM 5 WRITE THE HELP DESCRIPTION IN THIS WAY?

05:00PM 6 A. NO, THERE'S BASICALLY, THE -- BE HELPFUL, BUT BEYOND THAT
05:00PM 7 THERE WAS NOT ANY PARTICULAR REQUIREMENT THAT WAS PUT UPON
05:00PM 8 THEM.

05:00PM 9 MR. PAK: I THINK WE CAN RECESS FOR TODAY,
05:00PM 10 YOUR HONOR.

05:00PM 11 THE COURT: OKAY. ALL RIGHT. LADIES AND GENTLEMEN,
05:00PM 12 WE ARE DONE WITH OUR PRESENTATION OF TESTIMONY FOR TODAY.

05:01PM 13 I'M GOING TO MAKE A SLIGHT MODIFICATION IN THE SCHEDULE.
05:01PM 14 AND, COUNSEL, UNLESS THERE'S AN OBJECTION, WE CAN START AT 9:30
05:01PM 15 TOMORROW. IS THAT GOING TO BE OKAY?

05:01PM 16 MR. PAK: THAT WORKS FOR US YOUR HONOR.

05:01PM 17 MR. VAN NEST: THAT'S FINE YOUR HONOR.

05:01PM 18 THE COURT: I KNOW YOUR SCHEDULE SAYS 10:00 AND
05:01PM 19 NORMALLY I HAVE A LONG CRIMINAL CALENDAR BEFORE YOU ARRIVE ON
05:01PM 20 TUESDAYS, BUT NOBODY WANTED TO COME INTO COURT TOMORROW SO I
05:01PM 21 WILL BE VERY QUICK WITH THAT.

05:01PM 22 SO PLEASE GATHER -- MS. SALINAS-HARWELL WILL HAVE YOU
05:01PM 23 GATHER SOME TIME BEFORE 9:30 SO WE CAN START PROMPTLY. WE WILL
05:01PM 24 BE IN SESSION UNTIL NOON AND TAKE AN HOUR FOR LUNCH AND THEN
05:01PM 25 THE REMAINDER OF THE DAY UNTIL 5:00.

05:01PM 1 SO LEAVE YOUR NOTEBOOKS AND BINDERS THERE AND TAKE YOUR
05:01PM 2 PERSONAL THINGS WITH YOU. REMEMBER, YOU ARE NOT TO TALK TO
05:01PM 3 ANYONE ABOUT THE CASE OR DO ANY RESEARCH OR INVESTIGATION.
05:01PM 4 HAVE A GOOD EVENING. I WILL SEE YOU IN THE MORNING

05:01PM 5 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD OUT OF THE
05:01PM 6 PRESENCE OF THE JURY:)

05:01PM 7 THE COURT: OKAY. I THINK THAT'S ALL OF OUR JURORS
05:02PM 8 HAVE NOW LEFT. PLEASE BE SEATED EVERYONE. COUNSEL, I JUST
05:03PM 9 WANT TO MAKE A RECORD OF THE CHALLENGES FOR CAUSE AND
05:03PM 10 PEREMPTORIES BECAUSE OUR RECORD IS MUDDIED ON THAT. AND LET ME
05:03PM 11 SUMMARIZE, AND THEN I WILL LET YOU CERTAINLY ADD TO IT.

05:03PM 12 AFTER THE JURY VOIR DIRE I MET WITH COUNSEL OFF THE RECORD.
05:03PM 13 I REQUESTED A LIST OF PROSPECTIVE JURORS THAT EACH SIDE WOULD
05:03PM 14 CHALLENGE FOR CAUSE AND THEN WE DID THE PEREMPTORY CHALLENGES.

05:03PM 15 THE PEREMPTORY CHALLENGES ARE DOCUMENTED ON A FORM.

05:03PM 16 CISCO ASKED THE COURT TO EXCUSE JURORS ERIKA CHUANG, GLENN
05:03PM 17 WATANABE, AND ALEX CHOU. YES, THAT WAS RIGHT. AND THE COURT
05:03PM 18 GRANTED THE REQUEST FOR CAUSE CHALLENGE REGARDING CHUANG AND
05:03PM 19 WATANABE AND DENIED REGARDING CHOU. THE PARTIES JOINTLY AGREED
05:03PM 20 AND REQUESTED THAT JUROR GARY FRY BE EXCUSED FOR CAUSE, AND THE
05:04PM 21 COURT GRANTED THAT ONE.

05:04PM 22 THERE WERE NO OTHER REQUESTS. AND MR. PAK, DID YOU WANT TO
05:04PM 23 MAKE A RECORD ON THE ONE THAT I DENIED?

05:04PM 24 MR. PAK: NO. I THINK WE ARE FINE, YOUR HONOR.

05:04PM 25 THE COURT: ALL RIGHT. AND, MR. VAN NEST, DID YOU

05:04PM 1 WANT TO MAKE A RECORD ON THE TWO THAT I GRANTED OVER YOUR
05:04PM 2 OBJECTION?

05:04PM 3 MR. VAN NEST: NO. THAT'S FINE, YOUR HONOR.

05:04PM 4 THE COURT: ALL RIGHT. THANK YOU. THE REMAINDER OF
05:04PM 5 THE EXCUSED JURORS WERE USED UNDER THE PEREMPTORY CHALLENGES,
05:04PM 6 AND THE COURT HAS YOUR DOCUMENTATION WHICH WE WILL MAKE PART OF
05:04PM 7 THE RECORD. SO I THINK THAT TAKES CARE OF DOCUMENTING THE JURY
05:04PM 8 SELECTION.

05:04PM 9 AND THAT WAS ALL I HAD FOR THIS AFTERNOON. IS THERE
05:04PM 10 ANYTHING ELSE, ANY HOUSEKEEPING OR OTHER MATTERS TO ADDRESS?

05:04PM 11 MR. NELSON: NOTHING FROM CISCO, YOUR HONOR.

05:04PM 12 MR. VAN NEST: YOUR HONOR, I JUST -- I BELIEVE WE
05:04PM 13 WILL HAVE SOME MATTERS IN THE MORNING PURSUANT TO THE FIVE
05:04PM 14 OBJECTIONS.

05:04PM 15 THE COURT: OKAY.

05:04PM 16 MR. VAN NEST: SO WILL WE BE STARTING WITH YOUR HONOR
05:04PM 17 AT 9:00?

05:04PM 18 THE COURT: NO, THANK YOU FOR ASKING. LET'S MEET AT
05:05PM 19 8:30. AND I EXPECT THAT MY CRIMINAL CALENDAR WILL ONLY TAKE
05:05PM 20 TEN MINUTES, SO IF WE HAVE TO PAUSE AND THEN COME BACK TO
05:05PM 21 FINISH UP, WE WILL HAVE TIME, BUT 8:30 WILL WORK FOR ME BEST OF
05:05PM 22 ALL.

05:05PM 23 MR. VAN NEST: THANK YOU, YOUR HONOR.

05:05PM 24 THE COURT: IS THAT EVERYTHING?

05:05PM 25 MR. NELSON: YES, YOUR HONOR.

05:05PM 1 MR. SILBERT: YOUR HONOR, I HAVE REALLY TRULY A
05:05PM 2 HOUSEKEEPING, BUT THERE'S A MOTION TO SEAL THAT'S BEEN FILED.
05:05PM 3 WE FILED IT, AND I KNOW WE FILED A BLIZZARD OF PLEADINGS
05:05PM 4 RECENTLY, BUT I DON'T BELIEVE IT'S UNOPPOSED RELATING TO WHEN
05:05PM 5 YOUR HONOR READ A FEW LINES OF A SEALED DOCUMENT IN THE RECORD
05:05PM 6 AT ONE OF THE HEARINGS. WE MOVED TO SEAL JUST THAT LITTLE BIT
05:05PM 7 OF THE SECTION OF THE TRANSCRIPT. I BELIEVE THE MOTION HAS
05:05PM 8 BEEN ON FILE NOW SINCE NOVEMBER 16TH. I THINK IT'S JUST BEEN
05:05PM 9 LOST IN THE SHUFFLE. WE JUST WANTED TO --

05:05PM 10 THE COURT: WELL, WE WILL CERTAINLY TAKE A LOOK AT
05:05PM 11 THAT.

05:05PM 12 DO YOU WANT THIS DAY'S TRANSCRIPT TO BE SENT TO YOU SO THAT
05:05PM 13 YOU CAN MAKE THE DESIGNATION OF THE SEALING?

05:06PM 14 MR. SILBERT: IF I WASN'T CLEAR, THE MOTION RELATES
05:06PM 15 TO A PRIOR HEARING, NOT TODAY.

05:06PM 16 THE COURT: OH, PRIOR, EXCUSE ME.

05:06PM 17 MR. SILBERT: WE FILED THE MOTION BACK ON
05:06PM 18 NOVEMBER 16TH. IT RELATED TO THE PRETRIAL CONFERENCE, I THINK.

05:06PM 19 THE COURT: SO -- THANK YOU. AND MOST DEFINITELY WE
05:06PM 20 WILL TAKE A LOOK AT THAT. AND I GATHER IT'S UNOPPOSED, SO WE
05:06PM 21 WILL JUST LOOK AT THE STANDARD.

05:06PM 22 IT RAISES A GOOD QUESTION. THESE TRANSCRIPTS BECOME PUBLIC
05:06PM 23 AFTER A CERTAIN AMOUNT OF TIME. SO IF YOU WISH THEM TO BE SENT
05:06PM 24 TO YOU SO THAT YOU CAN REQUEST REDACTIONS BASED ON MY SEALING
05:06PM 25 ORDERS, I NEED TO MAKE SURE THE COURT REPORTER UNDERSTANDS

05:06PM 1 THAT.

05:06PM 2 MR. SILBERT: I THINK WE ARE BOTH RECEIVING DAILIES,
05:06PM 3 I BELIEVE.

05:06PM 4 THE COURT: BUT ARE THEY POSTED -- THAT'S MY QUESTION
05:06PM 5 -- OR ARE THEY LOCKED? I DON'T WORK WITH IT, SO MAYBE THIS
05:07PM 6 IS -- I WILL HAND TO YOU. I WILL DO THE SEALING ORDERS.

05:07PM 7 WHEN YOU GET YOUR TRANSCRIPT YOU HAVE THREE DAYS TO
05:07PM 8 COMMUNICATE WITH THE COURT REPORTER OF SECTIONS, PHRASES TO BE
05:07PM 9 REDACTED FROM THE PUBLIC RECORD. IF SHE HEARS NOTHING FROM YOU
05:07PM 10 WITHIN THREE DAYS, IT GETS POSTED ON THE PUBLIC RECORD. SO I
05:07PM 11 WILL PUT THAT BALL IN YOUR COURT.

05:07PM 12 WE HAVE ONE FROM NOVEMBER 16TH. WE WILL MAKE SURE THAT
05:07PM 13 GETS POSTED SO THAT YOU HAVE AN ORDER THAT YOU COMPLY WITH.

05:07PM 14 AND SHOULD I GET BEHIND, PLEASE FEEL FREE TO ASK THE
05:07PM 15 COURT REPORTER TO MAKE THE REDACTIONS, AND IF I DENY IT LATER,
05:07PM 16 THEY CAN BE OPENED UP LATER. AND THAT WILL BE A BACKSTOP TO
05:07PM 17 PROTECT YOUR CLIENTS' CONFIDENTIAL INFORMATION AND THIRD
05:07PM 18 PARTIES.

05:07PM 19 MR. SILBERT: IF IT'S HELPFUL, THE DOCKET.

05:07PM 20 MR. PAK: THE PROPOSED ORDER WE FILED ON THE PREVIOUS
05:07PM 21 ONE THAT'S UNOPPOSED IS DOCUMENT 662-5. I HAVE COPIES I WOULD
05:07PM 22 BE HAPPY TO HAND THE COURT, IF THAT'S HELPFUL.

05:07PM 23 THE COURT: 662-5. I WILL GET THAT OFF THE COURT
05:08PM 24 FILE.

05:08PM 25 MR. PAK: AND YOUR HONOR, JUST TO BE CLEAR, WITH

05:08PM 1 RESPECT TO THE TRIAL RECORD, IT WAS OUR UNDERSTANDING THAT WE
05:08PM 2 WOULD TRY TO KEEP AS MUCH OF IT PUBLIC AS POSSIBLE, THAT WE
05:08PM 3 WOULD ONLY BE SEALING TRULY CONFIDENTIAL INFORMATION SUCH AS
05:08PM 4 SOURCE CODE.

05:08PM 5 THE COURT: ABSOLUTELY. AND, OF COURSE, WE HAVE
05:08PM 6 SEALED NOTHING IN THE COURTROOM. THE PUBLIC IS PRESENT, YOUR
05:08PM 7 COMPETITOR, SO THAT'S USUALLY WHAT YOU ARE MOST CONCERNED
05:08PM 8 ABOUT, NOT JUST INDIVIDUALS WALKING IN.

05:08PM 9 BUT THE COURTROOM IS OPEN AND IF THERE'S SOMETHING, PLEASE
05:08PM 10 GIVE ME A WARNING IN THE MORNING THAT WE ARE GOING TO HAVE TO
05:08PM 11 DO IT BECAUSE IT'S A LITTLE BIT AWKWARD IF I'M BEING SURPRISED.
05:08PM 12 I WOULD APPRECIATE THAT. BUT, YES, THE COURTROOM IS OPEN AND
05:08PM 13 THE JURORS ARE NOT SWORN TO SECRECY ON ANYTHING ONCE THEY ARE
05:08PM 14 EXCUSED.

05:08PM 15 MR. PAK: THANK YOU, YOUR HONOR.

05:08PM 16 THE COURT: ALL RIGHT. DOES THAT TAKE CARE OF
05:08PM 17 EVERYTHING?

05:08PM 18 MR. VAN NEST: I BELIEVE SO, YOUR HONOR.

05:08PM 19 THE COURT: ALL RIGHT. GOOD. THANK YOU.

05:13PM 20 (WHEREUPON, THE PROCEEDINGS IN THIS MATTER WERE CONCLUDED.)

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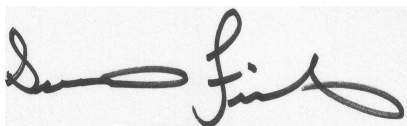
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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT
REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF MY ABILITY.

A handwritten signature in black ink, appearing to read "Summer A. Fisher", is written over a light gray rectangular background.

SUMMER A. FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

DATED: 11/28/16